The Solicitors' Journal

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Current Topics.

The New King's Counsel.

WE HAVE it on the authority of POPE that "hope springs eternal in the human breast," and the fact that in these days of depression quite a large number of members of the Bar are prepared to challenge forensic fortune as silks, even with its attendant expense, offers a fresh illustration of the truth above stated. The latest list of those to be called within the Bar numbers ten. Of these the senior is Sir MAURICE SHELDON AMOS, who is, as was his father before him, a distinguished jurist. For several years he acted as a judge in Egypt, and during the later part of his sojourn in that country he was judicial adviser to the Government; he also was a member of Lord BALFOUR'S mission to America. To him we owe a brief but admirable monograph on the English Constitution, published a year or two ago. Next in order of seniority in the new list is Mr. S. C. N. GOODMAN, who was called in 1898 and is a member of the Western Circuit and Recorder of South Molton. The Hon. STEPHEN HENN COLLINS, C.B.E., like Sir MAURICE SHELDON AMOS, inherits legal aptitudes, being a son of that great lawyer, the late Lord COLLINS, who was for some years Master of the Rolls, and later a Lord of Appeal in Ordinary. Mr. ROLAND BURROWS, as becomes the managing editor of the new edition of "Halsbury's Laws of England," is a very erudite lawyer; he is also Recorder of Cambridge, and Chairman of West Sussex Quarter Sessions. Mr. LINTON THEODORE THORP, who, like Sir MAURICE SHELDON AMOS, was for a time connected with the Ministry of Justice in Egypt, practises on the South Eastern Circuit. Mr. KENNETH MACMORRAN is another who has legal blood flowing in his veins, being the son of Mr. ALEXANDER MACMORRAN, K.C., the great authority on local government law; he is also a distinguished ecclesiastical lawyer and is Chancellor of the Dioceses of Chichester, St. Albans and Ely. Of the remaining members of the list, Mr. JAMES MILLARD TUCKER belongs to the Oxford Circuit, Mr. EDWARD LASCELLES FLEMING and Mr. WILLIAM GORMAN are attached to the Northern Circuit, while Mr. HECTOR SAMUEL JAMES HUGHES, who is a King's Counsel of the rish Bar, was called to the English Bar in 1923.

Precedence in Court.

A PARAGRAPH on this subject appears in the Annual Statement issued by the General Council of the Bar to which it may be of interest to call special attention. It seems that an ex-law officer enquired whether, as such, he was entitled to any right of precedence and pre-audience in the courts. Last year when, presumably, the ruling of the Council was asked there were, if we are not mistaken, no fewer than four ex-law officers in general practice, so it was well to have the matter discussed and an understanding arrived at in the interests of the ex-law officers, and no less in the interests of King's Counsel who have not held office under the Crown. Apparently the question occasioned some trouble, for we are informed that the chairman consulted the law officers, a number of ex-law officers, and others, and the results of his investigations were finally considered by the Council as a whole. The net outcome is that in the opinion of the Council, law officers, on relinquishing their offices, revert in point of precedence and pre-audience to the position conferred upon them by the patent which appointed them King's Counsel. Although this does not appear in the Council's statement, it seems that in Scotland a different rule prevails, ex-law officers, as such, ranking immediately after the Lord Advocate, the Dean of Faculty and the Solicitor-General, and in priority to other King's Counsel. No doubt the appointment of a member of the Inner Bar as a law officer involves as a rule distinction, and there may be something to be said in favour of continuing the right of precedence when the Attorney-General or Solicitor-General demits office and resumes his place as an ordinary silk; but the Bar of England, with all its traditions, remains a democratic body and regards seniority as the test of precedence and as the simplest solution of the problem. Questions of this kind are now rare, but it was not always so. In the days when the serjeants were still a live race frequent were the complaints that a King's Counsel, however junior in standing, took precedence of the serjeants unless indeed the serjeants had received a patent of precedence. In later times the Lords Chancellor were loath to grant patents of precedence, and great was the bitterness engendered in consequence in the breasts of those serjeants who were refused the coveted grant. Serjeant ROBINSON in his fascinating book, "Bench and Bar," says he was rebuffed when he first applied for the coif, and when at a subsequent period of his career he applied to Lord Chancellor CAIRNS for a patent of precedence he received a communication from the Chancellor's secretary to the effect that his lordship and the ex-Chancellors had arrived at the conclusion that no patent of precedence ought in future to be granted to a serjeant. Within three weeks, however, ROBINSON received another letter from the secretary stating that Lord CAIRNS would make an exception in his favour, and would recommend Her Majesty to grant him a patent but it would be the last. That was in 1865, but there was still one more granted, namely, in 1868, when AUGUSTUS SARGOOD received a similar patent.

Solicitors' Undertakings in County Courts.

THERE WAS a paragraph last week in *The Times* which may have caught our readers' eyes, setting out as it did some

comments of Judge TURNER, of the Westminster County Court, upon the status of solicitors. His Honour was reported as saying that he could not accept the personal undertaking of a firm of solicitors to pay, because they were not officers of the court. "And," he is said to have gone on, "I always regard it as a scandal that I cannot accept their undertaking, but that is where we are. Apparently the high contracting authorities of the Law Society regard the county court as beneath their consideration." Now, it is very difficult to believe that a judge of so much experience and learning should have any real doubt about the position of solicitors appearing in his court. Ever since the Solicitors Act of 1843 they have had a statutory right to appear in county courts as originators of suits, and they have, of course, also, the right to appear as advocates: see the County Courts Act, 1888, ss. 72, 185. So far as their personal undertakings are concerned, it is provided, for example, in the County Court Rules themselves, that they may be given and accepted. In a case where the plaintiff is not resident in England or Wales, his solicitor may give a personal undertaking to be responsible for costs, such an undertaking being accepted instead of the usual security: Ord. V, r. 10, County Court Rules. The form provided—No. 17—makes it plain that the undertaking must be a personal one. So far as his remarks concern the Law Society, it is indeed difficult to follow the learned judge. If an undertaking amounts to a contract (and see as to this, *Re Kerly* [1901] 1 Ch. 467), the society is not, of course, a contracting party at all, unless it gives the undertaking—or supports it. We are at a loss, moreover, to conceive why Judge TURNER should imagine that the Society regards the county courts as beneath its consideration. We venture to think that the Society would like to see all solicitor practitioners in those courts fulfilling BACON'S words, as we may, perhaps, paraphrase them—"skilful in Precedents, wary in Proceeding, and understanding in the Business of the Court, . . . excellent Fingers of a Court, and . . . many times pointing the way to the Judge himself."

Séances and Subtle Devices.

IN A CASE for damages due to injuries received in a road collision, the plaintiff was a spiritualistic medium, and Mr. Justice HUMPHREYS instructed the jury to treat her business losses on the footing that her vocation was by no means necessarily illegal. The plaintiff herself testified her belief in the authenticity of the messages received by her during séances, and her own sincerity does not appear to have been seriously in question. Sincerity of belief on the part of a medium, however, that his or her statements, in trance or otherwise, whether written or verbal, are inspired by discarnate spirits, is no defence to a charge of "professing to tell fortunes or using any subtle craft, means or device, by palmistry or otherwise, to deceive and impose," etc., within the Vagrancy Act. This was laid down in *Stonehouse* v. *Masson* [1921] 2 K.B. 818, by a Divisional Court, of which Lord DARLING was a member, overruling his previous decision in *Davis* v. *Curry* [1918] 1 K.B. 109. Perhaps HUMPHREYS, J., distinguishes between mediums and fortune-tellers, but, so far as mediums are paid to advise their clients even on the general course of future events, it is difficult to conceive how *Stonehouse* v. *Masson* could be distinguished on a prosecution under the old Act. The year before last a bill was introduced into the House of Commons to reverse the effect of that case for *bonâ fide* mediums, on which we commented, 74 SOL. J. 856, but it was not passed. Judges from GAMALIEL onwards have had difficulty in dealing with the occult. Lord COKE, in the reign of CHARLES II, condemned ROSE DUNY and AMY CULLENDAR to death for witchcraft, avowing his belief in the reality of the offence by reference to scripture and the universal credence of mankind. On the other hand, GIFFORD, V.-C., in *Lyon* v. *Home* (1868), L.R. 6 Eq. 655, the defendant being one of the most celebrated mediums of all time, took no pains to hide his opinion that the system of mediumship, as presented by the evidence, was "mischievous nonsense" (p. 682). In *Monck* v. *Hilton* (1877), 2 Ex. D. 268, a prosecution under the Vagrancy Act, CLEASBY, B., was somewhat more cautious, relying on the finding that the medium, in pretending to psychic gifts, was an impostor, using a wax hand smeared with oil and phosphorous, etc. In *Penny* v. *Hanson* (1887), 19 Q.B.D. 478, DENMAN, J., indicated a robust disbelief in astrology. For a polished discussion of the possibility of copyright being vested in a discarnate spirit, reference may be made to the observations of EVE, J., in *Cummings* v. *Bond* [1927] 1 Ch. 167.

Rain-Soaked Timber.

WE NOTE with interest that among the findings of an umpire in a recent special case stated—a case dealing with the question of a purchaser's right to reject a quantity of Russian timber on the ground that it did not comply with the stipulated specifications as regarded measurements—was a finding that owing to the fact that the goods had been lying out exposed to the weather and were swollen with rain it was impossible to say exactly what their dimensions were at the time of shipment. Rain-soaked, and consequently swollen, timber has been the cause of much trouble on many occasions. Particularly unfortunate, indeed, was the position of the master of a timber-carrying vessel who, having correctly loaded his vessel down to her marks at the port of loading, was fined £50 on the vessel's arrival at Hull for "allowing the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load line." The fact that the vessel was deeper loaded on arrival at Hull than when she left her loading port was due entirely to the fact that owing to rain and heavy weather *en voyage* the timber cargo had absorbed about 130 tons of water. A more general, if less important, illustration of the inconvenient moisture-absorbing powers of unseasoned timber is provided by the doors and windows of some of the more modern houses. They swell and stick tight in winter and shrink and rattle in summer!!

Blood Grouping and Paternity.

IN AN article in our last issue, p. 138, a contributor gave some account of the blood-groups, and said that the grouping test had a certain value in cases of disputed paternity. According to *The Lancet* (27th February, p. 468), the test was recently accepted as evidence in the Circuit Court in Dublin. An elderly man was sued by a young woman in the district court for the maintenance of her child, and the district justice made an order against the defendant. On appeal to the Circuit Court, he produced the evidence of the group test that he could not be the father of the child. The test was carried out by three medical men in the presence of the solicitors of the two parties, and, after considering this and other evidence the judge allowed the appeal. This occasion is, we believe, the first on which the test has ever been accepted as evidence in the British Isles, although it is widely used in several Continental countries. An article published in *The Lancet* as long ago as 1929 (1929, ii, 921) shows that it was even then already in use in Germany and Scandinavia on a large scale. Out of a total of 5,500 German law-suits, it enabled paternity to be excluded in 8 per cent.; as theoretically the test only yields evidence in 16–18 per cent. of cases, it follows that in those suits in which the test had been applied, roughly every second man had been accused unjustly. The basis of the evidence is that the blood-group of a child is determined, according to MENDEL'S law, by those of the parents, so that, knowing the groups of a mother and a child, it is possible to say to what group the father can, and to what he cannot, belong. The test is essentially eliminative, and not positive. When performed by a reliable pathologist, the chances of error are said to be practically negligible and it deserves to be better known in this country.

Criminal Law and Practice.

THE PRESUMPTION OF LEGITIMACY AND ITS REVERSAL.

THERE is a presumption, not of law but of fact, that a child born in matrimony is legitimate: *Gardner* v. *Gardner* (1877), 2 App. Cas. 723. It is a presumption which can be rebutted on proper evidence: *The Poulett Peerage* [1903] A.C. 395.

The presumption is one which the courts are very reluctant to set aside. Mere length in the period of gestation, although it be prolonged beyond recorded experience, yet if it be not an impossible period in the existing state of medical knowledge, will not suffice to destroy the presumption of legitimacy: *Gaskill* v. *Gaskill* [1921] P. 425. Neither husband nor wife will be heard to prove that their presumed offspring is a bastard: *Russell* v. *Russell* [1924] A.C. 687, following a long chain of decisions beginning with *Goodright* v. *Moss* (1777), Cowp. 591.

Both the decisions touching the period of gestation and those on the inadmissibility of the evidence of husband and wife to bastardise their presumed offspring have to be taken with limitations. In the former case they lie in commonsense and the nature of things. In the latter they are the subject of express judicial decision.

Gaskill v. *Gaskill*, *supra*, decided only that the birth of a child, with proved non-access of the husband after a date which required accepting a period of gestation prolonged much beyond the ordinary, could not be accepted as establishing the wife's adultery. It follows it could not be used to prove the illegitimacy of the child. But in affiliation cases it would be wrong to make an order in every case where the paternity of the defendant would involve a period of gestation approaching the length of that in the *Gaskill Case*. In the one case the burden of proof is on the person alleging adultery to show that the period of gestation is impossible: in the other the burden is on the complainant to prove the paternity of the man she accuses.

Just as a court properly shrinks from branding a woman as an adultress on an inference from a physical fact as to which experts have incomplete knowledge, so in other circumstances the same scientific uncertainty should operate in favour of the party attacked. This is not to say that no affiliation order should ever be made where the truth of the woman's story involves accepting a prolonged period of gestation, but it does mean that the most searching inquiry must be undertaken, and any doubt resolved in favour of the defendant.

The reversal of the burden of proof is illustrated in a workmen's compensation case, *Pace* v. *Wardsend Steel Co.* (1927), 20 B.W.C.C. 260, where a child was born to the workman's wife 343 days after he was killed and 345 after the last act of coitus. The onus of proof that it was the man's child was held not to have been discharged.

The present-day "open mind" as to the variability and possible wide limits of the period of gestation is reflected in s. 2 of the Age of Marriage Act, 1929, which gives a right to apply for an affiliation order where the pseudo-husband has had access to the pseudo-wife within twelve months from the birth of a child. This is, of course, only a limit defining the right of application. The question of the possibility of paternity is one for inquiry as in any other case.

In some circumstances the presumption of legitimacy is definitely reversed.

In the case of a judicial separation there is a presumption of non-access of the husband, and a child born at a date after the separation which precludes his being the father by intercourse before the decree will be regarded as a bastard till the contrary be shown: *Hetherington* v. *Hetherington* (1887), 12 P.D. 112. The law supposes obedience to its own decree: see *In re the Parishes of St. George and St. Margaret* (1706), 1 Salk. 123.

If a child is born which must have been conceived during the currency of a separation order made by justices, non-access will be presumed and the husband can get a divorce on the wife's admission: *Andrews* v. *Andrews and Chalmers* [1924] P. 255. The husband may give evidence in such cases, *Stewart* v. *Stewart* (1932), 96 J.P. 56, but not where there is a maintenance order only without a separation clause: *Boston* v. *Boston* (1928), 138 L.T. 647.

It was said, but only *obiter*, in *Mart* v. *Mart* (1925), 42 T.L.R. 253, that a deed of separation has the same effect as a judicial separation in reversing the presumption of legitimacy, but this, it is submitted, is going too far. Yet, of course, there is nothing illegal in parties separated by the order of a court resuming cohabitation and to that extent they are in the same position as parties to a voluntary agreement who mutually agree to break it.

Incompetence to Swear.

[CONTRIBUTED.]

A VERY long established rule of our law has been invoked in a surprising manner in a recent local police court case. We are familiar with the question of the ability of a child to comprehend the nature of an oath, and many are the stories recalled of the embarrassment of learned judges in attempting to reason with the little innocents on the existence of Hell Fire and the Hereafter.

But rare indeed is it that an adult is found utterly wanting not only in religious knowledge, but in any conception of truth and untruth. This, however, is what befel in the case referred to. A single woman aged twenty-six applied for an affiliation order, and on entering the box a question arose whether she could understand the nature of an oath. Clearly she did not. On further interrogation she appeared to know nothing of God or the Bible. Neither had she any appreciation of the consequences of telling a lie.

The justices were considerably exercised to know how to deal with this innovation, and allowed the complainant to retire with her legal adviser, that, presumably, she might be instructed in the nature of an oath. Upon their return into court her solicitor stated that "she knew that the Bible was about God," but the justices were dissatisfied and refused to accept her evidence, so that her application was perforce dismissed. To lend a further Gilbertian touch, the respondent was present and admitted the paternity of the child!

The requirement of our law in such cases is that the deponent however young or ill-educated he or she may be, must be capable of understanding the nature of an oath. Such old cases as *Young* v. *Slaughterford* (1709), 11 Mod. Reps. 228, and *R.* v. *Brasier* (1779), 1 Leach 199, show that the rule is of ancient standing, and apparently little varied from early times to the present day. It would appear to be a fair construction of the authorities to say that, provided a witness can understand the difference between truth and untruth, and that to lie is wrong, he can be sworn. "A child who has sufficient knowledge may be examined," said PARKE, B., in *R.* v. *Perkins* (1840), 9 C. & P. 395, C.C.R., and it is submitted that the knowledge need not be religious knowledge, so it be an appreciation of the evil of untruth.

It is true that in *R.* v. *Williams* (1835), 7 C. & P. 320, a girl's evidence was rejected on the ground that she showed no knowledge of religion or of a future state, but it must be remembered that even a person who has no religious belief whatever may yet be examined if he or she appreciate the danger of perjury. Or, as the situation is well put in a modern Indian case, "a child may be examined if it is sufficiently developed intellectually to understand what it has seen and afterwards to inform the court thereof."

All the reported cases appear to deal with children, for it must be unusual indeed for an adult to lack sufficient understanding, except in cases of lunacy or mental deficiency. In the affiliation case above mentioned there was no suggestion of mental deficiency, although it was pointed out by the applicant's solicitor, that even if his client were insane, she could give evidence during a lucid interval.

One cannot, however, resist the inference that unless the applicant was indeed mentally defective, it would have been possible sufficiently to impress upon her simply that it was wrong to relate the events except as they actually occurred, without any additions or subtractions, and that to do so would be perjury.

Those considering this question are prone to look almost entirely to the religious side, with the result that if a witness has no religious knowledge, and cannot therefore appreciate the oath, his evidence cannot be admitted at all. It is suggested that a knowledge or belief that lying involves some dire and spiritual penalty in the Hereafter is by no means essential. More stress should be laid on the temporal consequences of perjury, and the witness impressed that untruthful evidence makes the administration of justice impossible.

There is no doubt that the rejection of a witness for want of religious belief is a great obstacle to the administration of justice, and as is strikingly demonstrated in the affiliation case, leaves parties unable to enforce their rights. On the whole, however, our courts usually place as favourable a construction on the comprehension of a witness as possible, doubtless having in view the evils which may result from the rejection of testimony. If, however, the court is determined to demand a very strict proof of the understanding of a witness, there are many points upon which a judge can, with justification, pronounce himself dissatisfied, and if this were the settled policy of our courts many deponents whose evidence is now admitted would be rejected.

It often occurs when the religious knowledge of a witness is in question that the legal adviser is allowed to "instruct" the witness out of court. But the ultimate object of the adviser is to qualify his witness to give evidence, and this may well be an objection in itself, for the doctrine of undue influence might be extended to such a case.

And there is some authority for this in R. v. *Williams*, *supra*, where the judge refused to admit the evidence of a child whose only religious knowledge was communicated to her shortly before and for the purpose of the trial as "instruction." "The effect of an oath on the conscience of a child should proceed from religious feelings of a permanent nature, and not from instruction recently communicated for the purpose of the trial."

Section 1 of the Oaths Act, 1888, provides for affirmation where a witness objects to being sworn, and states, as a ground for the objection, that he has no religious belief. This does not *primâ facie* appear to apply to a case where the deponent makes no objection, but simply seems to have no religious knowledge, but in practice it is unlikely that the "objection" would be insisted upon, and it is submitted that in such a case the witness could affirm as a person having no religious belief, provided he appreciated the nature of affirmation. And s. 3 expressly preserves the validity of an oath duly administered, even though it later appears that the witness had no religious belief.

Regarded from a practical standpoint, our law can be said to place no obstacle in the path of swearing or affirming a witness, and such difficulties as do arise could surely be overcome, with tact and patience.

Possibly the writer is influenced in this view by having regretfully to record the swearing of a witness to an affidavit on Pitman's Shorthand (bound in brown paper), and having heard, on unimpeachable authority, of yet another deponent who was greatly impressed both by the weight and appearance of "Prideaux" on being sworn thereon to an affidavit.

Incidence of Customs and Excise Duty.

THE incidence of customs and excise duty, as between the seller and the purchaser of dutiable goods, is determined by s. 10 of the Finance Act, 1901.

The fiscal policy of the National Government will, no doubt, stimulate the interest of the trading community in this branch of the law.

This section comprises four sub-sections, of which the first two may conveniently be considered together, for they are complementary. The first deals with new and increased, and the second with repealed and decreased, impositions.

The effect of these sub-sections is this. Where certain conditions have been fulfilled, the seller (in the case of new or increased duties) may "recover, as an addition to the contract price, a sum equal to any amount paid by him in respect of the goods on account of the new duty or the increase of duty," and the purchaser (in the case of repeals or decreases) may "deduct from the contract price a sum equal to the amount of the duty or decrease of duty."

The authorities on this section are few, but it is submitted that the following tests will decide whether a person may take advantage of its provisions.

For the sake of clarity, the case of a new imposition is taken to illustrate these tests, which are applicable to increases, decreases and repeals, *mutatis mutandis*.

1. *A new duty must be imposed.*

It is obvious that there must be in force a statute which imposes a duty on the class of goods under consideration.

2. *The goods must be goods in respect of which duty is payable.*

The application of s. 10 is now extended, by s. 7 of the Finance Act, 1902, to goods which "have undergone a process of manufacture or preparation, or have become a part or ingredient of other goods."

Difficulties probably arise under the latter section, but they are not difficulties of law. If A purchases raw material on which he pays duty, manufactures other goods from it and sells those goods to B, the only question is—Does the contract between A and B satisfy in all other respects the conditions of s. 10? There may, of course, be difficulties of book-keeping or identification. If a merchant has a quantity of undutiable material, e.g., imported before the date on which a new import duty takes effect, he must keep it distinct from dutiable material, if he wishes to take advantage of s. 10. The onus of proving that the requirements of the section have been satisfied is upon the person calling it in aid.

In the case of a chain or series of contracts by which the same goods are passed through innumerable hands, each person, except the initial seller and the ultimate purchaser, is both a purchaser and a seller. In his capacity of seller each may take advantage of s. 10, provided that his contract with the purchaser from him satisfies the conditions of the section as to time, etc. Thus, if A rightfully debits B with the amount of duty paid by him (A), B is entitled to debit C with an equivalent amount, provided that the goods delivered to C are those bought from A.

It was pointed out by Bray, J., in *American Commerce Co.* v. *Boehm, Ltd.*, (1919) 35 T.L.R. 224, that the statute presupposes an obligation on the buyer to pay the duty. The term "buyer" as applicable to a chain of contracts must mean the "ultimate buyer."

3. *Delivery must be made in pursuance of a contract made before the duty takes effect.*

If the contract is made after the duty becomes effective, it is for the parties to take into consideration the amount of duty in fixing the price.

Newbridge Rhondda Brewery Co. v. *Evans* (1902), 86 L.T. 453, was decided upon s. 20 of the Customs Consolidation Act,

1876, which was repealed by s. 10 (4) of the Act of 1901. But a question arises whether this decision applies to s. 10.

In this case, an agreement under which the purchaser was bound to buy his beer from a certain brewer, provided that the latter was willing to sell it duty paid at a certain price, was made before an increase of duty took effect. After the imposition, the purchaser gave orders which were executed. The question arose as to whether the brewer was entitled to add the increase to the contract price. It was held that he was not.

LORD ALVERSTONE, C.J., pointed out that the brewer need not supply beer unless he chose. "We think," he said, "that s. 20 of the Act of 1876 was meant to apply to the case in which there was a mutual obligation, fixed prior to the imposition . . . to sell on the one hand and to purchase on the other."

If facts similar to those in the *Newbridge Case* arose under s. 10, there is room for doubt whether that case would be followed. MR. SANKEY (now the Lord Chancellor) in argument said that, if the words of s. 20 had been "in pursuance of a contract made before the Act was passed," he could not have argued that the section did not apply. These words are, in fact, the words of s. 10. Mr. Sankey contrasted them with the words of s. 20—"any increase . . . after the making of any contract or agreement for the sale or delivery of such goods." There is nothing in the judgments to indicate what view the court took of this point.

The question whether s. 10 would apply to facts similar to those in the *Newbridge Case* depends: (1) upon the construction of the term "a contract," and (2) whether the deliveries can be said to be "in pursuance of" the "tying" agreement.

Section 20 is expressly limited to a "contract or agreement for the sale or delivery" of goods—the words of s. 10 are "in pursuance of a contract" without any express limitation. The words of the latter section are wider, but it employs the terms "seller," "purchaser" and "contract price," which connote a contract of sale.

Assuming that s. 10 were not so limited, the deliveries must be in pursuance of the "tying" agreement, if the section is to apply. Until a delivery order is accepted by the brewer, he is under no obligation to supply beer. The "tying" agreement merely fixes the price of beer, if the brewer is willing to sell. It would seem, therefore, that the deliveries are made in pursuance of the contract formed by acceptance of the order, and not in pursuance of the "tying" agreement. If this is accurate, s. 10 would not apply to the facts of the *Newbridge Case*.

The point is one of considerable doubt, but the court would probably limit the application of s. 10 to contracts of sale.

An agreement such as that in the *Newbridge Case* must be distinguished from a contract for deliveries by instalments. In instalment contracts, there is one contract of sale subject to delivery at agreed intervals.

4. *The amount must have been paid by the seller "in respect of the goods on account of the new duty."*

The seller must be in a position to prove that payment has been made in respect of the particular goods delivered. The expression "on account of the new duty" obviously includes any payment referable to the duty, not merely the direct payment to the revenue authorities.

5. *The parties may contract out of the section.*

In *Corn Products Co.* v. *Fry* (1917) W.N. 224, the plaintiffs sold 180 casks of corn syrup "ex store Bristol, duty paid, delivery/shipment as required during January." BRAY, J., held that the words were not sufficiently strong to show an intention on the part of the plaintiffs and the defendants to contract out of the section. This decision was followed in *American Commerce Co.* v. *Boehm, Ltd.* There, the plaintiffs sold to the defendants 100 lbs. saccharine to be shipped from New York to a British Port c.i.f. "duty paid." Between the date of the contract and delivery thereunder, the duty was increased and the plaintiffs were obliged to pay the increase. It was held that the words "duty paid" did not constitute an agreement that the seller should not be entitled to recover the amount of the increase, and therefore s. 10 applied.

The question is clearly one of fact to be decided upon the merits of the particular case. But only the plainest words will suffice to take a contract out of the section, for it presupposes an obligation on the purchaser to pay the amount of the duty.

Having dealt with the first two sub-sections, it remains to consider sub-ss. (3) and (4).

Sub-section (3) provides that where an addition or deduction is made on account of a *new or repealed* duty, a sum representing any new *expenses* incurred or any *expenses* saved may be included in the addition to or the deduction from the contract price. This sum may be agreed by the parties, but, in default of agreement, it may now be determined by the Commissioners of Customs and Excise: see s. 4 of the Finance Act, 1908. Sub-section (3) is treated in Halsbury's "Laws of England," Vol. 25, p. 148, as though it referred to all disputes arising under the section. A perusal shows that it relates solely to "expenses."

Sub-section (4) provides that the section shall have effect as from the 19th April, 1901, and it repeals s. 20 of the Customs Consolidation Act, 1876, and s. 8 of the Finance Act, 1900. The section was held, in *Conway* v. *Mulhern* (1901) 17 T.L.R. 730, to apply even though an action relating to the price of the goods was pending at the time when the Act was passed.

It is conceivable that many problems will face persons trading in dutiable goods. But most of these problems will not involve points of law. To take an example: A contracts to supply B with a certain quantity of goods which may be obtained in Great Britain or in some foreign country. A purchases foreign made goods upon which a duty is imposed. A pays the duty and seeks to increase the price of the goods to B. Can B refuse to take delivery of the goods because of the increase of price? Two questions arise: Are the goods otherwise in accordance with the contract? Does the contract satisfy the requirements of s. 10? If both questions are answered in the affirmative, then B must take delivery. Delivery cannot be resisted on the ground that undutiable goods were obtainable in England.

Highway Landslips.

WITH the development of roads, and in particular as a result of widening existing highways, many cases have arisen during recent years in which owners of land adjoining or abutting on the highway have come into conflict with local authorities anent landslips. Sometimes, as when a highway has been widened where it runs through a cutting by removal of soil from the banks on either side, rainfall or the vibration caused by passing traffic will cause a landslide from the adjoining land on to the highway; at other times, when a highway passes along an embankment raised above the land on either side, the same causes may operate to cause a landslide from the highway itself on to the adjoining land. In the former case the highway authority has to complain of temporary inconvenience to traffic, and the adjoining landowner loses a portion of his land; in the latter case the parties are affected in precisely the opposite manner.

Some of these cases are not of this simple character, but involve more or less complex questions of bulging or fallen walls, their ownership, repair and maintenance. A wall abutting on a highway may be built by an adjoining owner or by the local authority to prevent such landslides from occurring. Obviously it is to the mutual interest of landowner and local authority that all such necessary walls be properly maintained; yet there is frequent disputation as to the

liability to repair and maintain, and occasionally such a controversy finds its way into the courts. In *Gulley* v. *Smith* (1883), 12 Q.B.D. 121, the appellant was tenant of lands bounded by a highway which at a certain point passed through a cutting some 20 feet below the general level of the lands through a marly soil. There was a retaining wall nearly perpendicular and badly constructed and quite insufficient to retain the marl and soil. This wall, for purposes of the case, was assumed to be the property of the appellant (though there was no proof either way, except that the appellant had once caused it to be repaired). Part of the wall having subsided, some ten loads of stone and soil had fallen upon the metalled high road, causing a dangerous obstruction. Notice was given to the appellant by the highway surveyor (respondent in the appeal) to remove this obstruction. The appellant refused to do so and was convicted by the magistrates of "wilful obstruction" of the highway under s. 72 of the Highways Act, 1835. Against this he appealed on the ground that the obstruction was not caused by any specific, positive or overt act of his; and it was contended on his behalf that s. 72 did not apply. The court, however, overruled this, and Lord COLERIDGE, C.J., in the course of his judgment, said:—

> "It appears to me that directly it is stated that the wall and the soil which the wall upheld are the property of the appellant . . . and when it is shown that the wall and soil have fallen across the highway, the appellant was required to remove that which belonged to him and obstructed the highway, then there was that which was wilful on his part in leaving them there."

From this it would appear that *primâ facie* whenever there is a fall of land *upon* a highway it is the duty of the owner of the adjoining land to remove the debris, simply because it belongs to him and is causing a nuisance. If he fails to remove his soil after notice to do so he is *wilfully* causing an obstruction. What is the position, however, when land forming part of a highway falls down upon an adjoining owner's land is by no means clear. Certain it is that the landowner has no Highway Act at his service to compel the local authority to remove the fallen earth. It may be (probably is) the fact that the soil of the highway actually belongs to the adjoining owner. In any event, it will presumably be necessary for the highway authority to put the roadway in order lest worse things happen to pedestrians or vehicles; and that perhaps is the solution of that particular matter. But it is submitted that where such an occurrence has taken place the landowner is entitled to require the local authority to take steps effectively to prevent its repetition; and if the local authority builds a retaining wall for that purpose it will be their own property and they will be responsible for keeping the wall in repair thereafter. See *R.* v. *Lordsmere Inhabitants*, *infra*.

Supposing, however, the local authority in order to widen a road, should require to take a slice of a high bank on either side. Normally the authority would have to acquire what was necessary by purchase from the adjoining owner. The question then might arise as to how the owner should protect himself against further loss of his land by landslips. It would appear that this is a question capable of being dealt with (by arbitration if necessary) as one of compensation generally; and if so dealt with the landowner and his successors would then be debarred from making any future claim. On the other hand, it would be open to the local authority to build a retaining wall which it would then be their duty to maintain and repair. This liability, apart from express agreement, arises out of the fact that the wall forms part of the highway itself.

Where the owner of adjoining land has erected a retaining wall this likewise remains his own property and is repairable at his own cost; but the local authority cannot claim the right to call upon him at any time to repair it; and the mere fact that he has done so from time to time for his own convenience or satisfaction does not give them right. This was in fact decided in *Stockport and Hyde Highway Road* v. *Grant* (1882), 51 L.J. Q.B. 357, where an easement of support had been acquired by the owners of the highway, and the court held that in the absence of express stipulation in the instrument creating the easement no liability could be inferred from the fact of occasional repair by the owner of the wall. In *R.* v. *Lordsmere Inhabitants* (1886), 54 L.J. 766, it was held that the question whether a retaining wall formed part of the highway was one of fact for the court or jury, and that therefore the real question was whether the wall did or did not form part of the highway.

These are matters by no means free from complication, and possibly expensive litigation, and should therefore be very clearly provided for whenever highway widening is "in the air." The landowner then has his best chance of saving himself and his successors in title from future anxiety.

Discovery in Proceedings under the Solicitors Acts.

[CONTRIBUTED.]

RULE 4 of the Rules under s. 9 (1) of the Solicitors Act, 1919, provides for the sending by the clerk to the Statutory Committee of a notice of hearing to the complainant and to the solicitor.

The form of notice is scheduled to the Rules, and the material part is as follows:—

> "You are required by the Rules to furnish a list of all the documents on which you propose to rely."

The notice goes on to provide for inspection of the listed documents and for the supply of copies. No other provision as to discovery of documents appears in the Rules.

Being required to furnish a list of the documents upon which he proposes to rely, the party furnishing the list, be he complainant or solicitor, is apparently at liberty to list only those documents which he considers are likely to assist his case and *ex hypothesis* to exclude those documents which either weaken his case or assist that of the other side.

This provision was no doubt intended to simplify the procedure, but none the less represents a startling departure from the ordinary rules of discovery which oblige a party to disclose all material documents in his possession, whether they assist his case or not.

In the majority of disciplinary proceedings against solicitors before the Committee the documents are common to both sides, and the document omitted from one side's list is usually to be found conspicuously displayed in that of the other side, but it may well happen that there is non-disclosure by the holder of a document of the existence of which the other side is unaware and which might, if disclosed, destroy the case of the concealing party.

Take, first of all, the case of the solicitor respondent fighting, perhaps, with his professional back to the wall: is he not likely to take full advantage of the rules which enable him to suppress documents that substantiate the complaint he has to meet?

Then consider the case of the unscrupulous complainant actuated by motives of malice or vengeance towards the solicitor-respondent, and determined by hook or by crook to achieve his discomfiture or worse.

Is it an improbability that such a complainant would avail himself of the opportunity afforded by the Rules to suppress documents whereof the existence is unknown to the solicitor, but which, nevertheless, may afford that corroboration or explanation, the lack of which handicaps him in his defence?

In this connexion it must not be overlooked that it is possible to prefer a complaint against a solicitor for professional misconduct wholly unconnected with monetary matters and without the relationship of solicitor and client existing between

complainant and respondent, and it is in such a class of complaint prosecuted from motives of private vengeance or spite that the unscrupulous complainant is to be found.

The remedy for such abuse, or possibility of abuse, be it said, for the functioning of the Statutory Committee generally commands the respect of the public and the profession alike, would seem to be to enlarge the Rules by providing that on notice by either complainant or solicitor requiring the other so to do, the party so notified shall make and file with the Clerk to the Committee an affidavit of documents in the usual form disclosing all documents in the deponent's power, custody or possession relating to the matters in question in the complaint.

Such a provision available at the option of either party would go far to preclude the possibility of the cards being stacked by one side or the other as under the present Rules.

How pleasant it would be to be able when vulnerable to discard the deuces before playing the hand. "C'est magnifique mais ce n'est pas la guerre."

Company Law and Practice.

CXIX.

ACCOUNTS—III.

In addition to the directors' report which, as I mentioned at the end of this column last week, s. 123 of the Companies Act, 1929, requires to be attached to the balance sheet, the Act also requires (by s. 129 (1)) that the auditors' report shall be attached to the balance sheet. The auditors' report is a familiar part of every balance sheet, but it is not, perhaps, universally realised that, in making this report, the auditors are bound by statutory provisions which, to some extent, regulate its subject-matter. These statutory provisions are to be found in s. 134, which says that the report must state whether or not the auditors have obtained all the information and explanations they have required, and whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information, and the explanations given to them, and as shown by the books of the company. A great deal of time and energy has been expended in discussing the form and meaning of the auditors' report, and I do not propose to digress at this point to add to the written matter on the subject. The balance sheet must also be signed on behalf of the board by two of the directors, or, if there is only one director, by that director. Thus, we see that a balance sheet must be submitted periodically to the company in general meeting, it must be signed on behalf of the board, and there must be annexed to it the directors' report, and the auditors' report.

But the protection extended by the legislature to the shareholder with regard to the balance sheet, does not end with the provision that the balance sheet must be laid before the company in general meeting; members and other persons must, in certain circumstances, be furnished with copies. The rights of members and other persons in this connexion depend upon whether the company is a public or a private company; in the former case, all persons entitled to receive notices of general meetings of the company must be furnished, not less than seven days before the date of any general meeting, with a copy of every balance sheet which is to be laid before the company in general meeting, including every document required by law to be annexed thereto (s. 130 (1)). The section is somewhat curious in its wording, for it says "a copy of every balance sheet, including every document required by law to be annexed thereto . . . together with a copy of the auditors' report"; this might at first sight be thought to suggest that some subtle distinction is being drawn between "annexation" and "attachment," for s. 129, as we have seen, says that the auditors' report shall be "attached" to the balance sheet. Curiously enough, s. 123, also refers to the directors' report as being "attached" to the balance sheet; what, then, does s. 130 mean by referring to documents required by law to be annexed to the balance sheet, and then going on to refer specifically to the auditors' report? The answer seems to be that there is no significance in the use of the words, and that the reference to the auditors' report might just as well have been left out, as it is included in the word "annexed."

As we know, it not infrequently happens that there are certain classes of shares in the capital of companies, the holders of which have no right of voting except in certain events, and it is not unusual in such circumstances (and indeed it is logical) to provide that, so long as they have no right of voting, they shall not be entitled to receive notices of, or attend and vote at general meetings of the company. They are not, however, on this account, deprived of their right to have balance sheets: because s. 130 (1) (*b*) says that any member of the company (again if it be a public company) whether he is or is not entitled to have sent to him copies of the company's balance sheets, is to be entitled to be furnished on demand without charge with a copy of the last balance sheet, including the annexes or attachments which I referred to above. The same privilege is extended to holders of debentures in the company; and it may be well to remind my readers that, by s. 380 (1), the expression "debenture" includes debenture stock, bonds and any other securities of a company, whether constituting a charge on the assets of the company or not.

That is the law as to public companies in this connexion; in the case of private companies the requirements of the Act are much more modest: for in such case any member is entitled to be furnished, within seven days after he has made a request for it, with a copy of the balance sheet and auditor's report at a charge not exceeding sixpence a hundred words (s. 130 (2)). This sub-section is an example of thoroughly bad drafting, and it would almost appear that the draftsman, being exhausted by the labour of producing s. 130 (1), had allowed sub-s. (2) to go through without that due care which every clause of an embryo statute deserves. Thus, the right conferred upon the shareholder in a private company is merely the right to be furnished with a copy of "the balance sheet." What balance sheet? Last year's, or that of the year before, or the last one available, or what other one? In the case of public companies the Act is careful to say which balance sheet has to be furnished, either with or without demand; also, as we have seen above, though the section is not without its difficulties, it does, when dealing with the public companies, put beyond a doubt what the requisite attachments for the purpose of the section are. In the private company sub-section, however, no such information is forthcoming; it is true that a copy of the auditor's report has to be furnished, but nothing is said about the documents required by law to be annexed to the balance sheet. What of them? Can the private company safely refrain from sending, say, a copy of the directors' report? If so, this would seem to be rather unfair discrimination to the disadvantage of the shareholders in private companies; and there can be no doubt that it was intended that a member of a private company should, in such circumstances, receive a copy of the directors' report. The section, however, does not say so, and, though the company would be well advised to do so, there is no obligation, on a strict construction of s. 130 (2), to furnish any member of a private company with a copy of the directors' report.

In addition to all these matters there has to be included in the annual return of every company (other than a private company, and, under certain conditions, an assurance company) a written certified copy of the last audited balance sheet, including every document required by law to be annexed thereto, together with a certified copy of the auditors' report (s. 110 (3)). This phrase, which we find recurring

here, has been commented on by me earlier in this article when dealing with s. 130 (1). For the purposes of the annual return, any balance sheet in a foreign language must have annexed to it a certified English translation: and, if the last balance sheet was defective, having regard to the law existing at the date of the audit, the defects must be put right, and a statement that the copy has been amended must be made thereon.

(To be continued.)

A Conveyancer's Diary.

Vesting Deeds Additional Powers.

In another column there appears an interesting letter from Mr. J. R. Perceval Maxwell, in which he deals with this subject with reference to my "Diary" for the 13th February. I am gratified to know that Mr. Maxwell is of the same opinion as myself, but I am afraid that, even with the help of his letter, I cannot feel so confident of the correctness of it as he appears to be. I still think it a somewhat doubtful question. The whole point seems to turn upon the construction of s. 108 (2) of the S.L.A., which provides that "any power (not being merely a power of revocation or appointment) relating to the settled land thereby" (i.e., by the settlement) "conferred on the trustees of the settlement or other persons exercisable for any purpose whether or not provided for in this Act shall after the commencement of this Act be exercisable by the tenant for life or statutory owner as if it were an additional power conferred on the tenant for life within the next following section of this Act and not otherwise." Then, s. 109 enacts, in effect, that nothing in the Act precludes a settlor from conferring on the tenant for life or trustees any additional or larger powers and any additional or larger powers so conferred shall be exercisable as if they were conferred by the Act on the tenant for life.

If I understand Mr. Maxwell rightly, he thinks that the expression "additional or larger powers" must refer to some powers which are not provided for in the Act, which does, in ss. 16 and 71, provide for the raising of money to discharge incumbrances and giving effect to equitable charges and interests. I daresay that he is right, but, if so, it is a little difficult to put a meaning upon the expression "exercisable for any purpose, whether or not provided for in this Act" contained in s. 108 (2). I think that the note to s. 108 (2) in "Wolstenholme" II, p. 258, might be read as favouring the contrary view. After pointing out the necessity for such powers as I have been discussing being vested in the tenant for life, the learned editors say: "But though as respects the legal estate he thus becomes entitled to exercise powers conferred on special trustees (e.g., trustees of a term for paying off incumbrances or for securing portions) he must, pursuant to s. 16, give effect to their directions." On the whole I adhere to my opinion that these powers need not be set out in a vesting deed, but, unlike Mr. Maxwell, I have not complete confidence that the court would so decide.

Execution of Deeds by Companies—Assumption of Validity.

A correspondent whose letter is published in this issue is concerned to know whether he should follow "Palmer's Company Law" or "Wolstenholme's Conveyancing Statutes" with regard to the assumption that deeds purporting to be executed by a company are validly executed. In "Palmer," it is stated that when the articles contain special provisions as to affixing the seal, e.g., that the instrument must also be signed by two directors, those who deal with the company are bound to see that the deed on the face of it accords with the articles. It seems that the learned editors of "Palmer" have overlooked s. 74 (1) of the Conveyancing Act which enacts:—

> "In favour of a purchaser a deed shall be deemed to have been duly executed by a corporation aggregate if its seal be affixed thereto in the presence of and attested by its clerk secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation and where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as aforesaid, the deed shall be deemed to have been executed in accordance with the requirements of this section and to have taken effect accordingly."

On this sub-section the learned editors of "Wolstenholme" have a note to the effect that it removes the necessity for enquiring whether the formalities required by its articles, charter, etc., have been complied with.

That note appears to me to be perfectly right, and I have no doubt that the failure to point out the provisions of s. 74 (1) in "Palmer" was a mere oversight on the part of the learned editors, who do not, I think, mention the sub-section anywhere in their valuable work.

Power of Appointment by Joint Will.

A very curious case raising a novel point is reported in this week's *Weekly Notes*. I refer to *Re Duddell; Roundway* v. *Roundway* [1932] W.N. 51. Shortly the question is—what is the effect of a joint power of appointment exercisable by will only?

G.D. by his will, dated in 1881, devised and bequeathed the residue of his real and personal estate to trustees upon trust for his wife for life, and after her death in trust for his two children W.D. and B.G.D., for their sole and separate use during the term of their natural lives, and after the decease of the said W.D. and B.G.D., to convey and assign the said estate to such persons and to such ends and purposes as the said W.D. and B.G.D. should by will direct and appoint, and in default of such appointment to his right heirs for ever.

G.D. died in 1887, leaving his wife and two children surviving.

The two children made certain arrangements between themselves, and in 1904 entered into a mutual deed of covenant providing for the manner in which the property should be dealt with after the death of the widow. As part of the arrangements the two children executed a joint will exercising the power given by G.D., and directed that the property should be held after the death of their mother upon the same trusts as were declared by the deed of mutual covenant.

W.D. made a separate will later in which he confirmed the joint will, and he also made a codicil in which again he confirmed the joint will.

G.D. died in 1917 and the joint will, the separate will and the codicil were admitted to probate as being his last testamentary disposition.

B.G.D. is still living.

The matter came before Farwell, J., on a summons issued by the trustees for the purposes of the S.L.A. of G.D.'s will.

It may be remembered that I commented upon the effect of a joint will in previous articles and dealt with the few cases on the subject.

In the present case, Farwell, J., after referring to a statement of Lord Mansfield: "Now there cannot be a joint will" (in *Earl of Darlington* v. *Pulteney* (1775), 1 Cowp. 260), pointed out that persons entitled to joint property might make a joint will which on the death of the survivor would take effect.

His lordship therefore said that on the death of the daughter the joint will would be admitted to probate as being part of her testamentary dispositions, assuming that it had not been revoked.

The learned judge came to the conclusion that the will in question was a good exercise of the power. His lordship said that if he decided that a power to two persons to appoint by

will could never be exercised, no effect would be given to the perfectly plain intention of the testator, and added that he would be driven to that conclusion if he thought that the testator had sought to do something that was not within the law, but that was not the view which he adopted.

Consequently the joint will, if not in the meantime revoked by B.G.D., would, on her death, be admitted to probate as part of her testamentary dispositions and would be a direction or appointment by the two named persons which would be effective and would comply with the requirements of the testator's will.

Here then is a joint appointment liable to be revoked by either party without the consent of the other. But for all that, if I may respectfully say so, the decision seems to be common sense.

Landlord and Tenant Notebook.

Implied Surrender of Part.

Recently, I discussed the difficulties which are likely to arise when rent has been or is alleged to have been varied. The considerations which apply in the case of parcels are not necessarily the same. Generally speaking, the party who contends that the agreement has been altered in this respect will not find himself in a position in which, in order to succeed, he will have to establish two transactions, a surrender and a new grant, each to be inferred from conduct, the surrender being "by operation of law" and the new grant "implied." For, if the giving up of part of the premises be effected for valuable consideration, surrender can be inferred without disturbing the term.

This inference was drawn in *Jones* v. *Bridgman* (1878), 39 T.L.R. 500, in which the tenant sued for trespass and conversion; in effect, for wrongful distress. He had taken a seven, fourteen and twenty-one year lease of a suite of offices at an annual rental of £250 in 1874, but two years later he and the defendant discussed giving up two of the five rooms and a reduction of the rent by half. The defendant denied that the negotiations had resulted in agreement, but it appeared that the plaintiff did evacuate two rooms, and at Christmas, 1876, he paid £31 5s. and was given a receipt. Next March, however, the defendant wanted to give a receipt for "£62 10s. less £31 5s. allowance"; the plaintiff declined to pay on those terms, but tendered £31 5s. In reply the defendant levied, but soon withdrew, a distress. In June he distrained again, and the plaintiff then brought his action. It was held that the receipt and the giving up of possession had evidenced a surrender.

While in the case of a change of rent after the grant, the reported cases all show that two transactions have taken place, a surrender and a new grant, there is good authority that the surrender of part of the premises can be effected without determination of the tenancy. Thus in *Holmes* v. *Brunskill* (1878), 3 Q.B.D. 495, C.A., an action by a lessor against the tenant's surety, it appeared that at some time a notice to quit, the validity of which was disputed, had been given, and that landlord and tenant had then discussed matters with the result that the tenant signed a document agreeing to give up a particular field, his rent to be reduced by £10. In the action, the defences raised were that the tenancy had gone and alternatively that the absence of assent to the alteration had absolved the defendant. The Court of Appeal, while disagreeing as to the latter point, were unanimously of the opinion that the term had not been extinguished.

A similar point arose in *Baynton* v. *Morgan* (1888), 22 Q.B.D. 74, C.A., when an assignor of the term, being the original grantee, was sued for rent accrued due since the assignment. By arrangement with the assignee, the landlord had accepted a surrender of part of the premises and reduced the rent, and it was for the smaller amount that the action was brought. The defendant took the point that he was in the position of a guarantor, and should have been consulted, but the Court ruled that he was nothing of the kind, the action being brought on a personal covenant. It was then contended that the tenancy had been put an end to and a new one granted, but on this the Court held that nothing that had occurred had put an end to the term. An argument that there had been a technical eviction was rejected, the new tenant having been a consenting party. As a last effort, the contention was put forward that as there was nothing to provide for a reduction of rent in such circumstances, the landlord had, by severing the reversion, lost his right to the rent; but the Court responded to this suggestion by almost congratulating the defendant on not having been sued for the whole amount reserved. At all events, the language used amounts to *obiter dicta* to the effect that if the landlord had sued for the original rent, there would have been no answer. The point has never been decided, but it is certainly alarming to think that an assignor of a term might be liable for the full rent though the assignee has surrendered, say, all but a square foot of the demised premises, though he would, of course, have his remedy against the assignee.

Landlord and Telephone.

Since dealing with the effect of the Telegraph Act, 1863, in the "Notebook" of 23rd January last, I have been invited to consider the bearing upon the subject of the Telegraph Act, 1892. In my original article I mentioned that s. 3 of the 1892 statute did not affect the position discussed. My attention is now drawn to s. 2; but I do not consider that it is possible to read this section as conferring rights on a tenant against his landlord in relation to the demised premises: indeed, the proviso to sub-s. (1) appears to re-affirm the lessor's rights. The section is designed to assist the authorities in dealing with obstructive landowners, etc. The same applies to s. 4, which specifies, incidentally, "lines," not "works."

I have also been invited to consider the operation of the Telegraph Act, 1863, with regard to the "Wireless Relay Systems" now being installed in many private houses. *Primâ facie*, the apparatus used would fall within the meaning of "telegraph," and "work," and the matter would therefore be dealt with on the principles laid down in *Attorney-General* v. *Edison Telephone Co.*, to which my article referred. Thus, if the apparatus were not installed by the Post Office or by an "authorised" company, a landlord would have no power to object, the value of his reversion not being prejudiced. An unauthorised company carrying on this kind of business would, however, be liable to infringe the monopoly which was the subject-matter of the decision cited.

Our County Court Letter.

THE QUALIFICATIONS FOR WORKMEN'S COMPENSATION.

(*Continued from* 76 Sol. J. 45.)

II.

(*d*) Servant's Injury in Bath.

In *Smith* v. *Pratt*, recently heard at Lowestoft County Court, the claim was for compensation at 21s. 2d. a week from the 6th to the 20th July, 1931, during which period the applicant was incapacitated through bruised ribs. The injury had been sustained through a fall in the bath at the Cliff Avenue Golf Club, Cromer (while the applicant was living upon the premises as cook), her case being that taking a bath was by implication a part of her duty to her employers, and therefore reasonably incidental to her work. The case for the respondent (the

honorary secretary) was that it was necessary to distinguish two classes of accidents—one in which a person was ordered to do a certain thing, and the other in which it was optional. His Honour Judge Herbert Smith held that there was no causal connexion between the accident and the employment, as a domestic servant was not insured against all risks while on her employer's premises. Judgment was therefore given for the respondent with costs.

(*c*) Awards for Successive Accidents.

In *Lloyd* v. *Broughton and Plas Power Colliery Co. Limited*, recently heard at Wrexham County Court, the applicant was aged sixty-nine years, and had been employed by the respondents for fifty years, having had three accidents in the last thirteen years. He recovered from the first accident (a broken leg), but in December, 1929, he broke the other leg, and received 22s. 3d. a week while totally incapacitated, which amount was reduced to 10s. 6d. for partial incapacity on his resuming light work. In June, 1931, the third accident totally disabled the applicant, who became entitled to a further 15s. 9d. a week for total incapacity, i.e., 26s. 3d. a week in all. The respondents contended, however, that their total liability should not exceed 15s. 9d. a week, on the principle that incapacity is one and indivisible, or that the greater should include the less. His Honour Judge Sir Artemus Jones, K.C., held that it was a fallacy to regard incapacity as being the same in 1931 as it was in 1929. An award was therefore made in favour of the applicant with costs.

THE LIABILITIES OF HAIRDRESSERS.

The growing importance of this subject is shown by three recent cases. In *Hawksey and Wife* v. *Turton*, at Southport County Court, the claim was for £82 18s. 6d., as damages for negligence in treatment for a permanent wave. The plaintiffs' case was that (1) the heat was left on for twelve minutes—an unusually long time, (2) owing to leaky sachets, steam had escaped on to the pad, causing two scalds or burns on the scalp, (3) an abscess had resulted, which involved nine weeks' incapacity of the wife. The defendant's case was that (1) no complaint had been made at the time, although the formalin antiseptic should have revealed the burns, if any; (2) the plaintiff suffered from dandruff, and her illness after the treatment was a coincidence and not the result of negligence. His Honour Deputy Judge Morris held that the defendant took the risk of the plaintiff having a sensitive skin, and could not evade responsibility on that account. Judgment was, therefore, given for £25 out-of-pocket expenses and £25 for pain and suffering—a total of £50 and costs.

In *Hobbs* v. *Richards*, at Southend County Court, the claim was for £75, as damages for negligence in dyeing the plaintiff's hair a light blonde shade, instead of which it turned black and then fell out, necessitating the wearing of a wig. Her expert evidence was that the liquid preparation was a dangerous dye, prepared by a secret process, and required skilled application, whereas the peroxide used by the defendant had fixed the black colour, instead of removing it. His Honour Judge Crawford observed that the plaintiff was sixty-three years of age, but the condition of her hair was nevertheless due to the improper manner in which it had been treated. Judgment was, therefore, given for the plaintiff for £52 10s. and costs.

A contrary result was reached in *Tummons* v. *Taylor*, at Brentford County Court, in which the claim was for £50 as damages for negligence in carrying out a permanent wave and henna dye. The plaintiff's case was that (*a*) half her hair had turned green and she was unable to apply for a post as barmaid or waitress, (*b*) her expert evidence was that her hair was "over-cooked" and should not have been waved within a year of a previous henna dye. The defendant's case was that (1) he was aware that the plaintiff's hair had already been henna dyed, but he had successfully waved hair in similar cases; (2) the plaintiff had previously neglected her hair, but its condition had improved since his treatment. Corroborative evidence of previous neglect was given by two other hairdressers, and His Honour Judge Higgins gave judgment for the defendant, with costs. For prior references under the above title, see the "County Court Letter," in our issue of the 13th February, 1931 (75 Sol. J. 113).

Obituary.

Mr. T. S. PORTER.

Mr. Thomas Simpson Porter, solicitor, of Bedford, died on Saturday, the 27th February, at the age of eighty-six. Mr. Porter was admitted a solicitor in 1873, and later became Town Clerk of Bedford. He retired from the town clerkship nearly thirty years ago, and devoted himself to the development of suburban land. He was the oldest practising solicitor in Bedfordshire.

Mr. R. MARQUIS.

Mr. Robert Marquis, solicitor, of Crook, Durham, died recently at his home at Bishop Auckland. He served his articles with the late Mr. F. Badcock and was admitted a solicitor in 1898. He acted as deputy-clerk to the Spennymoor Urban Council during the time Mr. Badcock was the clerk, and in 1926 was appointed Clerk to the Crook Urban Council. Mr. Marquis, who had practised as a solicitor in Crook since 1904, retired from his post with the council in December last. He was chairman of directors of the Auckland Union Permanent Building Society.

Mr. G. W. G. BARNARD.

Mr. George William Girling Barnard, solicitor, of Norwich, died at his home on Wednesday, the 24th February, in his eighty-first year. Mr. Barnard was educated at Norwich Grammar School, and having been admitted a solicitor in 1873, he became a partner in the firm of Messrs. Bailey, Cross and Barnard, which has now become Messrs. Barnard & Son. For the greater part of his long life he was deeply interested in Freemasonry, he was a Past Grand Deacon of England and held the office of Deputy Provincial Grand Master from 1905 to 1924.

Mr. J. WILSON.

Mr. Joseph Wilson, retired solicitor, of Leeds, died recently at his home at Harehills, at the age of seventy, after a long period of ill-health. He was admitted in 1902, but never practised very much in the courts. He was keenly interested in the Leeds City Football Club, and was for some years honorary solicitor to the company.

Mr. F. C. WATKINSON.

Mr. Francis Cliffe Watkinson, solicitor, of Huddersfield, died suddenly on Saturday, the 27th February, at St. Annes-on-Sea. Mr. Watkinson, who was admitted a solicitor in 1890, was a prominent Freemason, and was Chairman of the West Yorkshire Charity Committee in 1925 and 1926.

Mr. W. EBSWORTH.

Mr. William Ebsworth, solicitor, of Bargoed, Glamorganshire, died on Friday, the 26th February, at the age of sixty-two. Mr. Ebsworth, who was admitted in 1907, had practised in the Rhymney Valley district for over twenty years. He was greatly interested in local government and social affairs, and was secretary of the Bargoed and District War Distress Fund.

BOROUGH OF WALSALL.

The next General Quarter Sessions of the Peace for the Borough of Walsall will be held at the Guildhall, Walsall, on Thursday, the 17th March, 1932, at 10 o'clock in the forenoon.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Legality of "Free Drawings" in Club.

Q. 2420. A group of persons are anxious to register under the Industrial and Provident Societies Act a club, which is expressed in its rules to be intended to provide opportunity for social intercourse, to make contributions to hospitals, blind institutions and other benevolent establishments out of the surplus of its revenue over its expenditure (say 20 per cent. of total revenue), and to provide in connexion with the Derby flat race at Epsom and the Manchester November Handicap and such other races as the committee shall from time to time decide a sum of money to be won by drawing a horse and in which members only shall participate and participate free of charge. The revenue of the club will be derived from the yearly subscription of members, and a very substantial portion (perhaps 40 per cent.) (from time to time to be fixed by the committee) of that revenue is intended to be allotted as prize money in connexion with the drawings. Is the proposed club illegal by reason of its having the provision of "free drawings" as one of its objects? Does the extent to which the revenue is intended to be apportioned for this purpose affect the question? Assuming it is legal for the club to provide "free drawings" in these circumstances, are its objects generally such that they will enable it to be registered under the Provident Societies Acts? *Downes* v. *Johnson* [1895] 2 Q.B. 203; 59 J.P. 487, decided upon s. 1 of the Betting Act, 1853, is thought to be in point.

A. (1) If the "free drawings" (or their proceeds) are to be distributed by a totalisator, the club will not be a bookmaker, although the members bet *inter se*. See *Attorney-General* v. *Luncheon and Sports Club* [1929] A.C. 400.

(2) The extent to which the revenue is intended to be apportioned is evidence as to which are the primary objects of the club, and therefore affects the question as to whether the proposed club is illegal. The latter question, however, is too vague to be answered for all purposes, as the reported cases only deal with the position in regard to the respective statutes under which proceedings were taken.

(3) Assuming (as stated in the question) that it is legal for the club to provide "free drawings," it does not follow that the club is legal within the meaning of the Industrial and Provident Societies Act, 1893, s. 4. The opinion is therefore given that the objects of the club are not such as will enable it to be registered under that section. If, on the registrar's refusal to register, an appeal under s. 7 were successful, the registration might still be open to cancellation, under s. 9 (1) (*c*), on the ground that the club exists for an illegal purpose, if the conduct of its business were unsatisfactory subsequent to registration.

Lights on Vehicles.

Q. 2421. A horse with unladen lorry was proceeding at a walk on its proper side of high road about thirty minutes after lighting-up time, but without lights lit. A motor car was meeting it and dimmed headlights. Another motor car going in same direction as lorry also dimmed lights. The motor car following lorry ran into lorry and went about fifty yards further after smashing lorry. The lorry had a rear unlit red light which would act as reflector, but it cannot be said that lorry was being used in agriculture within s. 6 of Road Transport Lighting Act, 1927, but still it was a reflector light. Lorry lamps were clean and good, and just about to be lighted. We can show that lorry was visible, say, 20 yards. There has been no prosecution. Your opinion will be valued as to a civil action.

(1) Is the absence of lights on the lorry an absolute bar? "Obligatory lights" is the heading in the paragraph in "Stone."

(2) Is such absence of lights (except reflector) such contributory negligence as to disentitle plaintiff to recover in an otherwise plain case of excessive speed and negligence?

A. (1) The absence of lights on the lorry is not an absolute bar; but

(2) It will be difficult to disprove negligence on the part of the plaintiff if the failure to exhibit lights had some bearing (by way of cause and effect) on the accident. A breach of a regulation does not necessarily cause an accident, and the defaulting party may nevertheless be able to recover damages, as in *Macfarlane* v. *Colam* [1908] S.C. 56. The common law obligation may even be wider than the statutory duty, as in *Wintle* v. *Bristol Tramway Co.* (1918), 117 L.T. 238, and the opinion is therefore given that the plaintiff's contributory negligence disentitles him to damages.

Infant's Liability for Motor Accident.

Q. 2422. A is a minor who has been sued for damages arising out of a motor accident. A is covered by an insurance company, who instruct solicitors to defend the proceedings on behalf of the infant. Can the infant defend the proceedings in his own name or must a guardian *ad litem* be appointed even although the claim is in respect of tort and the infant has a separate estate?

A. It is assumed that the infant was personally served with the writ, in which event an order will be required under R.S.C., Ord. 9, r. 4, that the service shall be deemed good service. It is further provided by Ord. 16, r. 18, that an infant shall not enter an appearance except by his guardian *ad litem*, and an obligation is laid upon his solicitors to file the requisite affidavit. The fact that the claim is in respect of tort (so that the infant may be personally liable) does not affect the application of the rule, and the existence of the separate estate renders the protection of a guardian *ad litem* all the more necessary.

Priority of Electricity Charges.

Q. 2423. I should be glad of your opinion as to whether the charges of a corporation for electricity, and dust-bin maintenance should be paid in priority to other debts in the winding up of an insolvent club registered under the Friendly Societies Act, 1896. It is proposed to get the general body of creditors to agree to accept a dividend, and then have the registration cancelled.

A. The winding up is evidently not to take place under the Companies Act, and the Friendly Societies Act confers no priority for public utility charges. It is also improbable that the relevant local Act entitles the corporation to priority, either for the electricity or dust-bin maintenance. The result is, that the corporation have no right to preferential payment in the winding up of the club, and payment of the arrears could only be claimed in the event of the continuance of the supply being requested. See the article on "Water, Gas and Electricity Charges and Receivers," etc., in our issue of the 23rd January, 1932 (76 Sol. J. 56).

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Mr. Justice Rooke died on the 7th March, 1808, after fifteen years' service in the Court of Common Pleas. His career presents no very unusual features, and as a lawyer he was not much regarded. His outstanding characteristic on the Bench was a mildness and mercy very rare at that stage of our criminal law. Thus, on one occasion, when a poor girl was convicted before him of a theft, committed in very pitiful circumstances, he inflicted a fine of a shilling only, adding that if she had not got the money he would give it to her himself. Having in his youth overcome a tendency to scepticism he remained throughout his life profoundly religious, exhibiting an almost clerical interest in divinity.

DEAF JURORS AND OTHERS.

Juries, the immemorial objects of professional scorn, recently received two jibes in the course of one week. Before the Court of Appeal, Mr. Norman Birkett said that they "are notoriously uncertain and what one jury might decide to-day another jury on the same facts might decide differently to-morrow." Again, when a deaf man sought exemption from jury service at Shoreditch County Court, His Honour Judge Cluer remarked, "I don't think deafness makes much difference. I have known juries give verdicts as if they hadn't been able to hear." These reflections recall a score of good stories, one of the best of which relates to a hopeless case where there was no possible chance of an acquittal. The prisoner's counsel, however, noticed on the jury an old man with a shaggy grey beard and the look of a moth-eaten goat who was gazing at him with the utmost attention and seemed profoundly impressed by his arguments. On him, therefore, he concentrated all his efforts in the hope of securing at least a disagreement of the jury. In fact the jury were discharged without giving a verdict, but not for the reason the observant advocate had built on. After half an hour's retirement, the other jurors discovered that the old man was stone deaf and had heard nothing at all of the case. As to the fantastic verdicts sometimes returned by juries in full possession of their physical faculties, much is related. Once, after a particularly fatuous acquittal, Mr. Baron Alderson exclaimed, "Good God! Can't I have another jury and let those twelve persons go into the other court where they can't do so much mischief? No doubt there are some men who can never comprehend what evidence is; but that twelve should come *together* to-day and let that man off!"

THE EQUITABLE MIND.

For several weeks now Chancery judges have been with some effect putting their shoulders to the wheel of the ditched and delayed coach of the King's Bench cause-list. No one complains except the Chancery Bar, for not one of the judicial volunteers seems to suffer from that remote unworldliness displayed by those all-too-learned equity lawyers who just after the great Judicature Act were called upon to share the duties of assize with their common law brethren. The failure of the experiment was demonstrated by such incidents as the one in which Mr. Justice North figured, when he presided at a murder trial in the course of which evidence was given that the prisoner, whilst putting on his clothes immediately after his arrest had said: "You'll find my bloody coat and my bloody waistcoat on the bloody bed." North concluded his summing-up in the following terms: "I seem to have overlooked till now an item of evidence, but perhaps not one of much importance bearing in mind the prisoner's own admission as to the death of the children. Still I mention it for what it is worth. He appears to have said when arrested that some of his clothes and also the bed were stained with blood. I do not find any witness for the prosecution who appears to have noticed these stains and after all they are comparatively unimportant. I leave the consideration of them to you."

Correspondence.

Additional Powers in Vesting Deeds.

Sir,—Your contributor to the "Conveyancer's Diary" of the 13th February, on p. 107, apparently suggests, in the latter part of his article, that the implied powers to raise money exercisable by tenants for life, for giving effect to the obligations imposed by s. 16 of the Settled Land Act, 1925, might be held to be "additional or larger powers conferred by the trust instrument relating to the settled land" within s. 5 (1) (*d*) of that Act, and should, for safety, be set out in vesting deeds relating to settlements or, alternatively, that express powers to raise money for portions contained in a settlement should be set out in the vesting deed.

If some special powers not covered by the Settled Land Act are conferred by the trust instrument on trustees, I agree that these should be set out (see ss. 108 (2), 109 (2)) as additional powers exercisable by the tenant for life But for the purpose of merely raising money the machinery (ss. 71 and 95, last part) given by the Settled Land Act is so wide that it is inconceivable that further powers would be required, in ordinary cases, to satisfy an intending mortgagee.

It must be fairly obvious that it is wholly unnecessary to set out any statutory power whether implied under s. 16 or conferred by s. 71 of the Settled Land Act, or s. 16 of the Trustee Act. Indeed, s. 5 (1) (*d*) of the Settled Land Act provides only for the setting out of "powers conferred by the trust instrument relating to settled land"; this alone is sufficient to rule out powers conferred by a public and general statute.

It seems clear on construction of the Settled Land Act, s. 5 (1) (*d*), that the only additional powers that ought to be set out in the vesting deed are those which are "additional to or larger than those conferred" by the Settled Land Act (see s. 109 of that Act), for the words in s. 5 (1) (*d*), "which by virtue of this Act operate and are exercisable as if conferred by this Act" obviously refer only to additional powers defined by s. 109, which cannot include powers implied by s. 16 or conferred by s. 71 of that Act.

Having regard to the decision in *Re Cayley and Evans' Contract* [1930] 2 Ch. 143, it seems that no doubt should be allowed to remain on this question, and that the practice in this matter should be uniform.

J. R. PERCEVAL MAXWELL.

Lincoln's Inn, W.C.2.
24th February.

Execution of Deeds by Companies.

Sir,—On p. 272 of the 13th Edition of "Palmer's Company Law" (1929), edited by Topham & Taylour, I find the following paragraph:—

"Where the articles contain special provisions as to the affixing of the seal e.g. that the instrument must also be signed by two directors, those who deal with the company are bound to see that the deed on the face of it accords with the articles."

I find difficulty in harmonising this definite statement with the equally definite statement on p. 248 of "Wolstenholme and Cherry," last edition, dealing with s. 74 of the L.P.A., 1925: "This sub-section removes the necessity for enquiry as to the formalities required under the memorandum, articles, charter, etc., of the corporation; independently of this section the deed would be void unless such formalities were observed."

Whom am I to prefer—Topham & Taylour or Wolstenholme and Cherry?

London, E.C.2. E. T. HARGRAVES.
23rd February.

Mr. Henry Charles Swan, of Henderson, near Auckland, New Zealand, formerly a solicitor in Newcastle, left property in this country valued at £1,056.

Notes of Cases.

House of Lords.

Hoare & Co. Ltd. *v.* **Collyer.** 3rd February.

Income Tax—Allowances—Brewery—Loss on Particular Tied Houses—No Loss on Aggregate—No Deduction.

The appellants, a brewery company, owned a number of tied houses and in preparing the accounts for assessment under Schedule D, relating to profits or gains of their trade, the question arose whether the tied houses were to be taken as a whole and the loss ascertained by reference to the rents received in respect of the whole of the houses, or whether each house was to be taken separately, so that any loss on one house could be deducted without regard to any gain on another. The Court of Appeal held that the tied houses must be taken as a whole. The brewery now appealed to the house.

Lord Buckmaster, in delivering judgment, said the judgment of the Court of Appeal depended on the view that the decision in *Usher's Wiltshire Brewery* v. *Bruce* [1915] A.C. 433, treated the business as a whole, and regarded the tied houses as one entity and part of the business. He found it difficult to follow that reasoning from examination of the case, nor did it seem consistent with the effect of *Fry* v. *Salisbury House Estate, Ltd.* [1930] A.C. 432, which decided that profits made from dealing with house property subject to assessment under Schedule A over and above the amount of such assessment were not subject to tax. From that decision it would follow that if in all the houses in the present case there had been excess rentals, that excess could not be taxed, but where, as here, the assessments were in some cases above and in some cases below the rent, the fact of using the rent to reduce the allowances where the rents were deficient would result in causing the appellants to pay the tax on the surplus rents notwithstanding *Fry's Case*, which held that such surplus rents were immune. The assessments under Schedule A were in respect of each separate house, and it was difficult to see how the allowances could be reduced because in a totally distinct property different conditions applied. He could see no ground on which the houses could be made into one, and unless they were so unified, the appellants were entitled to succeed. The appeal therefore would be allowed.

Lords Warrington, Atkin, Tomlin and Macmillan concurred.

Counsel: *Latter*, K.C., and *Cyril King*; *Sir William Jowitt*, K.C., *Sir Thomas Inskip*, K.C., and *Reginald Hills*.

Solicitors: *Godden, Holme & Ward*; *Solicitor of Inland Revenue*.

[Reported by S. E. Williams, Esq., Barrister-at-Law.

Midland Bank Limited *v.* **Reckitt and Others.**

29th February.

Principal and Agent—Authority to Draw Cheques—Cheque Drawn for Attorney's Private Debt—Liability of Bank—Negligence—Bills of Exchange Act, 1882, s. 82.

Appeal from the Court of Appeal.

In this action the plaintiff, Sir Harold Reckitt, claimed that he was entitled to recover from the Midland Bank £17,890, the proceeds of fifteen cheques wrongfully drawn by Lord Terrington, as his attorney, on the plaintiff's banking account with Barclays Bank, Hull, and wrongfully paid into his (Lord Terrington's) account with the defendant bank and which, as the plaintiff alleged, they negligently received. The defendants denied negligence, said they received the cheques in good faith, and relied on s. 82 of the Bills of Exchange Act, 1882. Sir Harold had since died, and the action was continued by his executors. The Court of Appeal, reversing Rowlatt, J., in respect of thirteen of the cheques, ordered judgment to be entered for the plaintiff for £13,490, but with regard to the remaining two cheques they held the bank was not put on inquiry. As to those two cheques there was a cross appeal by the respondents.

Lord Atkin, in giving judgment, said he had no doubt that the bank in presenting and receiving payment for the cheques converted them (see *Morison* v. *London County and Westminster Bank* [1914] 3 K.B. 356). The only question therefore was whether the bank had established that they received payment in good faith and without negligence. Their good faith was not challenged. The issue therefore was confined to negligence and the onus of proving its absence was plainly cast on the bank. It seemed to him that this case differed not in principle from *Reckitt* v. *Barnett, Pembroke & Slater* [1929] A.C. 176. Precisely the same state of things existed here. There was in the same way no evidence and no inference that he was applying the money in discharge of any possible liability of his principal. It seemed to him clear that in the omission of an ordinary business precaution the bank were negligent in making no enquiry as to their customer's authority to make these payments and the bank failed to show that they acted without negligence. His lordship also agreed with the Court of Appeal as to the two other cheques in respect of which the bank was held not to have acted negligently. The appeal and cross appeal were therefore dismissed.

Lords Dunedin, Warrington, Thankerton and Macmillan concurred.

Counsel: *R. Goddard*, K.C., and *D. B. Somervell*, K.C.; *Schiller*, K.C., and *H. G. Robertson*.

Solicitors: *Coward, Chance & Co.*; *Nicholl, Manisty and Co.*

[Reported by S. E. Williams, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Rex *v.* **Editor, etc., of the "Daily Herald" and Davidson: *Ex parte* The Bishop of Norwich.**

Rex *v.* **Editor, etc., of the "Empire News" and Davidson: *Ex parte* The Bishop of Norwich.**

Lord Hewart, C.J., MacKinnon and Hawke, JJ.

22nd February.

Contempt of Court—Consistory Court Proceedings Pending—Prejudicial Newspaper Articles—Divisional Court's Jurisdiction to Attach for Contempt.

Their lordships made absolute two rules *nisi* which were granted at the instance of the Bishop of Norwich on the 15th February calling on (1) the editor, printers and publishers of the *Daily Herald* and The Rev. Harold Francis Davidson, rector of Stiffkey, Norfolk; and (2) the editor, printers and publishers of the *Empire News* and Mr. Davidson, to show cause why writs of attachment should not issue against them for alleged contempt of court in publishing matters calculated to prejudice the hearing of certain charges against Mr. Davidson in the Consistory Court of Norwich. All parties apologised to the court. The question of law was whether the court would attach anyone for contempt of a consistory court.

Lord Hewart, C.J., in giving the judgment of the court, said that none of their lordships had any doubt that the court had jurisdiction. It was an inherent jurisdiction. Just as the court could correct an inferior court, so also it must in a proper case protect it. He referred to *Rex* v. *Daily Mail*; *Ex parte Farnsworth*, 65 Sol. J. 268; [1921] 2 K.B. 732; *Ricketts* v. *Bodenham*, 4 A. & E. 433; and *Burder* v. *Veley*, 12 A. & E. 233, and said that the same considerations applied in the present case and the inherent jurisdiction remained untouched by the statutes. The *Empire News* would be fined £100 and the *Daily Herald* £50. All the respondents would be ordered to pay the costs as between solicitor and client. The writs would lie in the office for fourteen days.

COUNSEL: *Norman Birkett*, K.C., and *Theobald Mathew*, for the editor, printers and publishers of the *Daily Herald*; *Sir Patrick Hastings*, K.C., *Theobald Mathew* and *John Davidson*, for the editor, printers and publishers of the *Empire News*; *Samuel*, K.C., and *E. Ryder Richardson*, for the Rev. Harold F. Davidson; and *Roland Oliver*, K.C., *W. T. Monckton*, K.C., and *Humphrey King*, supported the rule.

SOLICITORS: *John T. Monks*; *Theodore Goddard & Co.*; *Glynn Barton & Co.*; *Lee, Bolton & Lee.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.

In re the Application of The Right Hon. David Lloyd George.

McCardie, J. 24th February.

GENERAL ELECTION—CANDIDATE'S ELECTION EXPENSES—FAILURE TO TRANSMIT DECLARATION—APPLICATION FOR AUTHORISED EXCUSE—ILLNESS—INADVERTENCE—CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1883, 46 & 47 Vict., c. 51, ss. 33, 34.

This was an application by The Rt. Hon. David Lloyd George for an authorised excuse for not complying with a provision of the Corrupt and Illegal Practices Prevention Act, 1883. The application, which arose out of the General Election of October, 1931, when Mr. Lloyd George was elected for the Caernarvon Boroughs, was made in respect of his failure to file and transmit to the returning officer a declaration in respect of the election expenses which had been incurred in his candidature, as required by s. 33 of the Corrupt and Illegal Practices Prevention Act, 1883. The Act provided that within five weeks of the election the election agent had to make a return, and the candidate had to verify it by a declaration guaranteeing the return to be a true and correct one. The omission in the present case occurred owing to Mr. Lloyd George's illness and absence abroad when recuperating and to an unintentional inadvertence on his return. The High Court or an election court had jurisdiction in such circumstances, under s. 34 of the Act of 1883, to make an order allowing an authorised excuse. If the order was made its effect would be to wipe out the omission. If the relief asked for were not granted a penal action might be brought against the candidate if he took his seat in the House of Commons; also, it would be an illegal practice punishable by a fine of £100 or disqualification from voting in the borough for a period of five years.

McCARDIE, J., said that he was fully satisfied that the omission to file the declaration within the required period arose through illness and inadvertence, and he ruled that there was here an authorised excuse within the meaning of the Act of 1883. He would make an order accordingly.

COUNSEL: *Mr. J. L. Pratt* for Mr. Lloyd George.

SOLICITORS: *Rhys Riberts & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Sullivan *v.* Constable.

Luxmoore, J. (sitting as an Additional Judge of the King's Bench Division). 24th February.

SHIPPING—YACHT—SALE—BREACH OF WARRANTY—DRY ROT—LIABILITY OF VENDOR.

In this action Serjeant Sullivan, K.C., claimed damages from Sydney Constable for alleged breach of warranty on the sale of a yacht, the "Ailsa," to him by the defendant. The plaintiff alleged that in September, 1930, the defendant warranted that the hull of the "Ailsa" was sound and that her engine was in good running order, except for one temporary defect, and that by that warranty he (the plaintiff) was induced to buy the yacht for £300 without inspection. It was alleged that the hull was not, in fact, sound, the starboard side being affected with dry rot, and that some working parts of the engine were rusted solid and immovable. The plaintiff spent £167 on repairing the yacht. The defendant pleaded that there was no warranty, and that if there were a warranty the plaintiff suffered no damage.

LUXMOORE, J., said that he thought that it was plain from the correspondence that the plaintiff was not willing to purchase the yacht under the description "as she lies," and that he was only willing to do so in reliance on the defendant's assurance that the yacht was perfectly sound. In those circumstances it seemed to him that the defendant by his conduct and by that of his agent had so acted that the plaintiff was reasonably entitled to believe that the defendant was assenting to the position which he (the plaintiff) had so plainly asserted in the correspondence, and consequently that the rule in *Freeman* v. *Cooke* (2 Ex. 654), governed the case. The next question was, therefore, did the representation by the defendant ever become a term of the contract? For if it did not, its untruth would be immaterial. If it became a term of the contract, a further question arose: Was it a vital term, or was it merely an independent subsidiary promise? In the former case the representation would fall within the description of what was usually termed a condition; in the latter case it would fall within the description of what was usually termed a warranty. He was of opinion that, and he held that, the representation as to the soundness of the yacht was a condition which would have entitled the plaintiff to be discharged from the contract if he had discovered the facts before he had concluded the purchase. On discovery of the existence of the dry rot he became entitled to recover damages as on a warranty *ex post facto*. As he was unable to find any evidence that the defect to the engine existed at the date of the purchase, the plaintiff was entitled to judgment for £142 15s. 6d., with costs.

COUNSEL: *Reginald T. Sharpe* and *Helenus Milmo*, for the plaintiff; *Digby*, K.C., and *R. F. Hayward*, for the defendant.

SOLICITORS: *Richard Brooks and Son*; *Sandom, Kersey and Tilleards.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* Alexander Murray.

Lord Hewart, C.J., Finlay and Humphreys, JJ.

15th February.

CRIMINAL LAW—HABITUAL CRIMINAL—PREVIOUS CONVICTIONS—ALL IN SCOTLAND—ADMISSIBLE TO SECURE CONVICTION AS HABITUAL CRIMINAL IN ENGLAND—PREVENTION OF CRIMES ACT, 1871 (34 & 35 Vict., c. 112), s. 20—PREVENTION OF CRIME ACT, 1908, 8 Edw. 7, c. 59, ss. 10, 17.

This was an appeal by Alexander Murray against a conviction of being an habitual criminal. At the Central Criminal Court he was charged with burglary and also with being an habitual criminal. In respect of the charge of burglary, to which he pleaded guilty, he was sentenced to three years' penal servitude. To the charge of being an habitual criminal he pleaded not guilty, but the jury found him guilty and he was sentenced to five years' preventative detention. The Director of Public Prosecutions in the notice served upon the appellant, in pursuance of s. 10 (4) of the Prevention of Crime Act, 1908, that he was to be charged with being an habitual criminal, gave particulars of three previous convictions for crime, all of which had taken place in Scotland. One conviction was for shop-breaking with intent to steal, and the other two were for house-breaking and stealing. The appellant now contended that the three statutory convictions, which all took place in Scotland, were not such convictions of crimes within the meaning of s. 10 of the Prevention of Crime Act, 1908, as were necessary to constitute him an habitual criminal in England.

HUMPHREYS, J., giving the judgment of the court, said that they were of opinion that it was quite clear that reading the Prevention of Crimes Act, 1871, together with the Act of

1908, a crime which in Scotland was punishable on indictment and which was also a crime within the definition of "crime" in the Prevention of Crime Act, 1908, was a crime a conviction of which in Scotland might be taken into consideration, and which might form one of the three statutory convictions which had to be proved in order to convict a person of being an habitual criminal. In the present case it was also quite clear that the offences of which the appellant had been convicted in Scotland were crimes in England as well as offences in Scotland, and should be treated as the three convictions of crime which must be proved in considering the question whether a man was an habitual criminal.

COUNSEL: *A. Crew*, for the appellant; *H. T. Wright*, for the Crown.

SOLICITORS: *The Registrar of the Court of Criminal Appeal; The Director of Public Prosecutions.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.

Reviews.

The Merchant Shipping Acts. Fourth Edition. 1932. By ROBERT TEMPERLEY, M.A., of the Inner Temple, Barrister-at-Law, and WILLIAM LENNOX MCNAIR, LL.M., of Gray's Inn and the Middle Temple, Barrister-at-Law. Royal 8vo. pp. lxxxviii and (with Index) 892. London: Stevens & Sons Limited. 50s. net.

This is the fourth edition of Mr. Temperley's well-known work, the third having appeared in 1921. There is not such a wealth of new material for this edition as for the last. There are only five new statutes—all, save one, of relatively minor importance—although there are one or two decisions of considerable importance, such as the *Ruapehu* [1927] A.C. 523, the *Croxteth Hall* [1931] A.C. 126, and *Louis Dreyfus & Co.* v. *Tempus Shipping Co.* [1931] A.C. 726. The fortunate result of this is that it has been possible to avoid any considerable increase in the size of the book.

As its title implies, the book deals with a very specialised branch of law—just one particular part of shipping law, but to those desirous of consulting the law of what is known as the Merchant Shipping Acts, this is the book, and the new edition contains all the statutory and case law on the subject and most of the Regulations, Orders and Rules issued under the Acts and at present in force. It is unfortunate that the new edition has had to be published before the passing into law of the International Conventions on Maritime Liens and Mortgages, Limitation of Shipowners' Liability, Safety at Sea and Load Lines as these will effect important changes in our shipping law, and particularly in the provisions of the Merchant Shipping Acts, but the learned author was probably right in not further delaying the publication of this edition, as it is unlikely that the necessary amending legislation will be passed for some time yet.

The index—an important point in a work of this kind—is very complete and seems to be very accurate, and we have no hesitation in welcoming the new edition.

The Law of Banking and Stock Exchange Transactions. By HEBER L. HART, K.C., LL.D., late British Member of the Mixed Arbitral Tribunals; Recorder of Ipswich. Fourth Ed. In two volumes. Medium 8vo. pp. cxxii and (with Index) 1,265 pages. London: Stevens & Sons, Ltd. £3 3s.

The British banking system is one which has, especially within the last year or so, brought upon itself much praise and much criticism. It is not my province to deal with, or indeed express any opinion upon, such highly controversial topics, but, whatever views one may hold with regard to our system, it may not unfairly be said that it is one which affects the lives of the vast majority of the population of these islands to a greater extent, perhaps, than most people realise.

In these circumstances, it is very desirable that the lawyer, whether practising or academic, should be able to find collected and readily available in one publication the whole of the law on the subject of banking. This, thanks to Mr. Hart's industry, he is able to do; thus avoiding the necessity of searching from place to place for his material. One feature of this book which is specially commendable from the point of view of the busy man is that reported cases are, where practicable, dealt with at some length, and not just mentioned; the result being that it is frequently possible to form an accurate estimate of the applicability or otherwise of a case, without the absolute necessity of consulting the law reports.

The part of the book which deals with Stock Exchange transactions is one of much value, for this is a subject, frequently of great moment, the learning on which tended to be scattered until Mr. Hart collected and expounded it. An appendix contains the text of the Bills of Exchange Act, 1882; and the work has been brought up to date with that care which one would expect from the learned author.

Books Received.

Wig and Gown. The story of the Temple, Gray's and Lincoln's Inns. By Colonel ROBERT J. BLACKHAM, C.B., C.M.G. C.I.E., D.S.O., of the Middle Temple and Gray's Inn, and the South-Eastern Circuit, Barrister-at-Law. 1932. Demy 8vo. pp. xii and (with Index) 240. London: Sampson Low, Marston & Co., Ltd. 12s. 6d. net.

RECORDER AND SERIOUS CRIME.

The prevalence of house and shop-breaking was referred to recently at the Old Bailey by the Recorder of London, Sir Ernest Wild, K.C. "Only great vigilance on the part of the police can combat it," he said. "One is always glad when police vigilance is directed to more serious crime, instead of lesser and more technical matters."

CHANGE OF SOLICITOR.

In a recent possession case at Tiverton County Court, a solicitor appeared for another solicitor who was prevented from attending by an engagement at Bampton. His Honour Judge The Hon. W. B. Lindley allowed the case to proceed, but after the adjournment he pointed out that a solicitor was not allowed to appear for another general practising solicitor without notice. Only a barrister could do so.

Rules and Orders.

THE CROWN OFFICE RULES, 1932. DATED FEBRUARY 19, 1932.

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. The following Rule shall be inserted after Rule 111 of the Crown Office Rules, 1906,(*) and shall stand as Rule 111A:—

"111A. Where an application in writing for admission to bail is made by a person in custody to a Judge at Chambers and the Judge is satisfied that the applicant is unable through lack of means to instruct a solicitor and that no defence certificate under 20 & 21 Geo. V. c. 32, s. 1,(†) has been granted to the applicant the Judge may with the consent of the applicant assign the Official Solicitor to act for him.

"In any case where the Official Solicitor has been so assigned the Judge may if in his opinion it is expedient to do so proceed to deal with the application in a summary manner without the issue of a summons under the foregoing Rule 111."

2. These Rules may be cited as the Crown Office Rules, 1932, and the Crown Office Rules, 1906, as amended, shall have effect as further amended by these Rules.

Dated this 19th day of February, 1932.

Sankey, C.
Hewart, C.J.
Hanworth, M.R.
Merrivale, P.
P. Ogden Lawrence, L.J.
Roche, J.
Swift, J.
Maugham, J.
A. W. Cockburn.
C. H. Morton.
Roger Gregory.

(*) S.R. & O. 1906 (No. 512), p. 605.
(†) The Poor Prisoners' Defence Act, 1930.

THE MATRIMONIAL CAUSES (FOREIGN CONVENTIONS) RULES, 1932. DATED FEBRUARY 19, 1932.

We, the Rule Committee of the Supreme Court hereby make the following Rules:—

1. The following heading and Rule shall be inserted after Rule 29 of the Matrimonial Causes Rule, 1924, (*) and shall stand as "Rule 29A":—

"*Service out of the Jurisdiction.*

29A. The provisions of Order XI, Rules 8, 8A, 11 and 12, of the Rules of the Supreme Court (which relate to the service of documents in certain foreign countries) shall apply so as to enable documents in Divorce and Matrimonial Causes to be served in accordance with those provisions:

Provided that—

(*a*) The document may be served out of the jurisdiction without leave; and

(*b*) In the case of a petition or other document of which personal service is expressly required by these Rules, the official certificate shall show the server's means of knowledge as to the identity of the person served."

2.—(1) These Rules may be cited as the Matrimonial Causes (Foreign Conventions) Rules, 1932, and the Matrimonial Causes Rules, 1924, as amended,(†) shall have effect as further amended by these Rules.

(2) These Rules shall come into operation on the 1st day of April, 1932.

Dated this 19th day of February, 1932.

Sankey, C.
Hanworth, M.R.
P. Ogden Lawrence, L.J.
Maugham, J.
A. W. Cockburn.
C. H. Morton.
Roger Gregory.

(*) S.R. & O. 1924 (No. 126) p. 1691.
(†) *See* S.R. & O. 1925 (No. 74), p. 1536.

THE RULES OF THE SUPREME COURT (NO. 1), 1932. DATED FEBRUARY 19, 1932.

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. The following Rules shall be substituted for Order VII, Rule 3 (which is hereby revoked) and shall stand as Rules 2, 3 and 4 of that Order:—

II.—CHANGE OF SOLICITORS.

Notice of change of solicitor.

2.—(1) A party suing or defending by a solicitor shall (subject to the provisions of Order XVI Rule 30 relating to poor persons) be at liberty to change his solicitor in any cause or matter, without an order for that purpose, but unless and until notice of any change of solicitor is filed and copies of the notice are lodged and served in accordance with paragraph (2) to (6) inclusive of this Rule, the former solicitor shall (subject to the provisions of Rules 3 and 4 of this Order) be considered the solicitor of the party till the final conclusion of the cause or matter, whether in the High Court or the Court of Appeal.

Filing notice in London.

(2) Notice of any change of solicitor shall be filed in the appropriate office in London as indicated in the following table, except where the cause or matter is proceeding in a District Registry:—

Nature of Cause or matter.	Appropriate Office.
(*a*) An action or any other cause or matter entered in the Action Department of the Central Office.	Central Office (Action Department).
(*b*) A suit or other proceeding commenced in the King's Remembrancer's Department.	Central Office (King's Remembrancer's Department).
(*c*) An appeal from an inferior Court or other proceeding commenced (as regards the High Court) in the Crown Office and Associates' Department.	Central Office (Crown Office and Associates' Department).
(*d*) An originating petition presented in the Chancery Division.	Chancery Registrar's Office.
(*e*) A matrimonial cause or other proceeding (not being a probate action) commenced in the Principal Probate (or Divorce) Registry.	Principal Probate (or Divorce) Registry.
(*f*) A proceeding commenced in the Admiralty Registry.	Admiralty Registry.

Filing notice in District Registry.

(3) Where the cause or matter is proceeding in a District Registry, the notice shall be filed in that Registry.

Lodging copy for Associate.

(4) Where the cause or matter is an action proceeding in the King's Bench Division and has been entered for trial, the party giving the notice shall, when presenting it for filing, state the place of trial and lodge a copy of the notice for transmission to the Associate.

Lodging copy in Chancery proceedings and Probate and Admiralty actions.

(5) Where the cause or matter is entered in the Action Department and is proceeding in the Chancery Division or the Probate Divorce and Admiralty Division, the party giving the notice shall, when presenting it for filing, lodge a copy for transmission to the proper Chambers or Registry.

Serving copies on parties.

(6) The party giving the notice shall serve on every other party to the cause or matter (not being a party in default as to entry of appearance) a copy of the notice endorsed with a memorandum stating that the notice has been duly filed in the appropriate office (naming it).

Notice of appointment of solicitor.

(7) Where a party, after having sued or defended in person, appoints a solicitor to act in the cause or matter on his behalf, he may give notice of the appointment, and the provisions of this Rule relating to a notice of change of solicitor shall apply to a notice of appointment of a solicitor with the necessary modifications.

Notice of intention to act in person.

(8) Where a party, after having sued or defended by a solicitor, intends to act in person in the cause or matter, he may give a notice stating his intention to act in person and giving an address for service, and the provisions of this Rule relating to a notice of change of solicitor shall apply to a notice of intention to act in person, with the necessary modifications.

Power to act through new solicitor.

(9) The party giving any such notice as above may perform the duties prescribed by this Rule in person or (except where he intends to act in person) through his new solicitor.

Removal of solicitor from the record at the instance of another party.

3.—(1) Where a solicitor who has acted for a party in a cause or matter has died or become bankrupt or cannot be found or has failed to take out a practising certificate or has been struck off the roll of solicitors, and the party has not

given notice of change of solicitor or notice of intention to act in person in accordance with the provisions of Rule 2 of this Order, any other party to the cause or matter may, on notice to be served on the first-named party personally or by letter addressed to his last-known place of address, unless the Court or Judge otherwise directs, apply to the Court or Judge for an order declaring that the solicitor has ceased to be the solicitor acting for the first-named party in the cause or matter, and the Court or Judge may make an order accordingly.

(2) Where the order is made, the party applying for the order shall forthwith give a notice (in this Rule called a "notice of removal") to the same effect as the order, and the provisions of paragraphs (2) to (6) inclusive of Rule 2 of this Order shall apply to the notice of removal with the necessary modifications and subject to any direction in the order as to service on the first-named party.

(3) Where the party who applied for the order has complied with the said provisions, the first-named party shall either appoint another solicitor or else give such an address for service as is required of a party acting in person, and shall comply with the provisions of Rule 2 of this Order relating to notice of appointment of a solicitor or notice of intention to act in person, and in default of his so doing, any documents in respect of which personal service is not requisite may be served on the party so in default by being filed with the proper officer.

(4) Any Order made under this Rule shall not affect the rights of the solicitor and the party for whom he acted as between themselves.

Withdrawal of solicitor who has ceased to act for a party.

4.—(1) Where a solicitor who has acted for a party in a cause or matter has ceased so to act and the party has not given notice of change in accordance with the provisions of Rule 2 of this Order, the solicitor may on notice to be served on the party personally or by letter addressed to his last-known place of address, unless the Court or Judge otherwise directs, apply to the Court or Judge for an order to the effect that the solicitor has ceased to be the solicitor acting for the party in the cause or matter, and the Court or Judge may make an order accordingly; provided that until and unless the solicitor has complied with the provisions of paragraph (2) of this Rule he shall (subject to the provisions of Rules 2 and 3 of this Order) be considered the solicitor of the party to the final conclusion of the cause or matter whether in the High Court or the Court of Appeal.

(2) Where the order is made, the solicitor shall forthwith give a notice (in this Rule called a "notice of withdrawal") to the same effect as the order and the provisions of paragraphs (2) to (6) inclusive of Rule 2 of this Order shall apply to the notice of withdrawal with the necessary modifications and subject to any directions in the order as to service on the party.

(3) Where the solicitor has complied with the said provisions the party shall either appoint another solicitor or else give such an address for service as is required of a party acting in person, and shall comply with the provisions of Rule 2 of this Order relating to notice of appointment of a solicitor or notice of intention to act in person, and in default of his so doing, any document in respect of which personal service is not requisite may be served on the party so in default by being filed with the proper officer.

(4) Any order made under this Rule shall not affect the rights of the solicitor and the party as between themselves.

(5) In this Order the expression "address for service" means the address for service required by Orders IV and XII, or in relation to a Matrimonial Cause, the address for service required by the Matrimonial Causes Rules.(*)

2. In Rule 8 of Order XI, the following amendments shall be made:—

"(*a*) in the introductory paragraph, the words "a writ of summons or a" shall be inserted before the words "notice of a writ of summons"; and the words "may be adopted" shall be substituted for the words "shall be adopted";

(*b*) the words "the document" shall be substituted for the expressions "The notice" and "notice of the writ" where they respectively occur in paragraph (1);

(*c*) the words "of a document" shall be substituted for the words "notice of writ" in paragraph (2);

(*d*) the word "document" shall be substituted for the expressions "notice of writ", "notice of the writ", and "notice" wherever any of those expressions occur in paragraphs (3), (4), and (5).

3. In Rule 11 of Order XI after the words "Where leave is given in a civil or commercial cause or matter," the following words shall be inserted:—

"or where such leave is not required to be given and it is desired."

(*) S.R. & O. 1924 (No. 126), p. 1691.

4. In Rule 8 of Order XXIX, the words "A party" shall be substituted for the words "A solicitor in an action."

5. Paragraph (9) of Rule 2 of Order LV is hereby revoked.

6. The following Rules shall be added to Order LXVIII, and shall stand as Rules 3 and 4:—

"3. Order XI (which relates to service out of the jurisdiction) shall apply, as far as it is applicable, to proceedings on the Crown side, and to proceedings on the Revenue side, of the King's Bench Division.

4. Order VII, Rules 2, 3 and 4 (which relate to change of solicitor) shall apply (so far as applicable) to proceedings on the Crown side, and to proceedings on the Revenue side, of the King's Bench Division, and to proceedings for Divorce and other Matrimonial Causes."

7. These Rules may be cited as the Rules of the Supreme Court (No. 1), 1932, and shall come into operation on the 1st day of April, 1932, and the Rules of the Supreme Court, 1883,(†) shall have effect as amended by these Rules.

Dated the 19th day of February, 1932.

Sankey, C.
Hanworth, M.R.
P. Ogden Lawrence, L.J.
Maugham, J.
A. W. Cockburn.
C. H. Morton.
Roger Gregory.

(†) S. R. & O. Rev. 1904, XII, Supreme Court, E., pp. 54-417 (reprinted as amended to December 31, 1903).

SUPREME COURT OF JUDICATURE (ENGLAND).

ORDER OF THE LORD CHANCELLOR APPLYING THE PROCEDURE OF ORDER XI, RULE 8, OF THE RULES OF THE SUPREME COURT TO PERSIA.

I, JOHN VISCOUNT SANKEY, Lord High Chancellor of Great Britain, by virtue of Order XI, Rule 8, of the Rules of the Supreme Court and of all other powers enabling me in this behalf, Do hereby order as follows:—

1. Order XI, Rule 8, of the Rules of the Supreme Court shall apply to Persia.

2. This Order shall come into operation on the 1st day of April, 1932.

Dated the 29th day of February, 1932.

Sankey, C.

Societies.

University of London.

THE NEW DOMINION STATUS.—III.

On 23rd February, Professor J. H. Morgan, K.C., devoted the third and last of his Rhodes Lectures to a study of the fiscal autonomy of the Dominions. The last traces of restriction on this autonomy had, he said, disappeared in 1895 with the Australian Colonial Duties Act, which enabled the Australian Colonies to impose tariffs differentiating between other Dominions and countries. As a result, the Dominions had entered upon a war of tariffs qualified by intermittent and sometimes illusory preferences to one another and to the mother country. They had, in fact, been putting into practice exactly the principles which our own Government was now called upon to apply. There would be no departure from this legislative freedom at Ottawa. For this reason "Empire Free Trade" was outside the realm of practical politics; it would involve little short of an Imperial federal legislation. Great Britain would probably enter into reciprocal arrangements with the Dominions, as she had been free to do since she had denounced her commercial treaties with Belgium and Germany in 1897. If the Ottawa Conference were to result in an Imperial unity of fiscal policy—a very different thing from a fiscal union—this could only be achieved by the exclusion of the "most favoured nation" principle.

The first traces of the claim of the self-governing Colonies to be heard in foreign affairs were to be found in the movement for fiscal autonomy. The Dominions had been concerned only to complete their control over their own domestic affairs, and had discovered almost to their surprise that their fiscal autonomy involved the negotiation of foreign commercial treaties. The movement had begun with the adoption by the mother country of free trade and the abandonment of the "mercantile system." At first, the Dominions had not disputed the classical proposition of Lord Ripon that the Imperial Government must be in control of negotiations with foreign powers, and had desired only to be represented. To this claim had been originally due the creation of the office of

High Commissioner. Innumerable treaties had been negotiated with foreign countries by the Dominions through their own representatives, without any friction with the Imperial Government. The procedure had conformed to Lord Ripon's principles of joint negotiation and joint signature, the ultimate and supreme responsibility of the Imperial Government remaining unimpaired.

THE "HALIBUT FISHERIES CONVENTION."

The incident of the Halibut Fisheries Convention between Canada and the U.S.A. had spread something like consternation throughout the Empire and had marked a new departure. The object of the treaty had been the harmless and relatively unimportant one of studying the life-history of the Pacific halibut, but the startling innovation had been the proposal by the Dominion Government to negotiate and sign a treaty with a foreign power entirely alone on the ground that the subject-matter of the treaty was of concern solely to that Dominion. The issue had been complicated by some tactless draftsmanship by the U.S. Government, which had first of all proposed a treaty between the U.S.A. and "Great Britain," and had then desired to apply the treaty to "the nationals and inhabitants of any other part of Great Britain." However, the scope of the Convention had remained limited to Canada, and it had been signed by the American and the Canadian representatives alone.

Within the last six or seven years a complete revolution had taken place in the position of the Dominions with regard to political treaties. Separate diplomatic action by the Dominions inevitably encountered insuperable difficulties, and the Dominions had entered into the political sphere of diplomacy through the British Empire Delegations to the Paris Peace Conference and the Washington Conference, but at the dissolution of each of these assemblies the Delegation had disappeared. The problem was to make it a permanent body. It might, for example, regularise the anomalous position of the Dominion representatives at Geneva. Some principles governing the participation of the Dominions in the control of foreign relations had been agreed to by the Imperial Conference of 1923, the gist of them being that no Government of the Empire should negotiate a treaty without due consideration of its effects on other parts of the Empire, and that bi-lateral treaties imposing obligations on one part of the Empire only should be signed by a representative of the Government of that part. Moreover, it had been agreed that each Government of the Empire, before intimating its concurrence in the ratification of a treaty, should decide whether Parliamentary approval was required. This resolution had settled a dispute which had arisen in 1919 when Lord Milner had held that signature by a Dominion of the Treaty of Versailles was equivalent to concurrence in ratification, but the Canadian Government had disagreed.

A much larger question concerned the effect of ratification by the Imperial Government when the Dominions were not invited to ratify at all. Canada had acquiesced in the signature of the Treaty of Lausanne, which bound her as well as the rest of the Empire. Similarly, the Dominions were bound by the Liquor Smuggling Convention concluded between the Imperial Government and the United States, and a Canadian ship had in fact actually been seized under the terms of that Convention. The Statute of Westminster did not alter that position, for it was solely concerned with the legislative powers of the Dominions. Even when (as by the Treaty of Locarno) this country had undertaken to go to war if necessary to honour certain territorial guarantees, and the Dominions were exempted from this obligation in terms, they would none the less inevitably be at war if the mother country were at war. One part of an Empire could not be at war and another part at peace.

The United Law Society.

A joint debate between The United Law Society and the Hardwick Society was held last Monday evening, 29th February, in the Middle Temple Common Room. Mr. George Bull was in the chair.

The Hon. Dougall Meston moved: "That this Country should repudiate its War-debts to the U.S.A."

Mr. A. Newman-Hall opposed the motion on behalf of the Hardwick Society. Mr. R. W. Bell spoke second and Mr. A. A. Baden-Fuller spoke fourth. There also spoke: Messrs. P. K. Cross, M. V. Rabagbate, D. A. Stride, H. H. West, S. A. Redfern, T. A. Marfers, P. O. Hereward and J. Harcourt Barrington.

Mr. A. Newman-Hall having replied, the motion was put to the house, and there voted for the motion three and against fifteen. The motion was therefore lost by twelve votes.

Solicitors' Managing Clerks' Association.

ANNUAL GENERAL MEETING.

This Association held its Annual General Meeting at The Law Society's Hall on 18th February.

Mr. Ebenezer Smith, the retiring President, outlined the record of the Association during the last year. One of the most important events during 1931 has been the acquisition by the Association of a larger and more commodious office. It is now housed comfortably at Arundel House, Arundel-street, for at any rate the next twelve years, and the whole cost of the move was defrayed without touching capital. The second important happening, which also marked a milestone in the history of the Association, was the establishment of a Bournemouth and District Branch at the November meeting of the Council. The Association has been as active as ever in its educational pursuits. The usual programme of winter lectures in the Inns of Court was carried out and all meetings were well attended; the Society's Library is full and up to date.

The meeting unanimously elected Mr. R. W. Everard to be its President for 1932.

The City of London Solicitors' Company.

ANNUAL DINNER.

The annual dinner of the City of London Solicitors' Company was held at the Mansion House on Thursday, the 25th February, when the Master (J. H. N. Armstrong, Esq., O.B.E.) presided, and the guests included The Right Hon. The Lord Mayor, The Master of the Rolls, and P. H. Martineau, Esq. (President of The Law Society).

Among the other distinguished guests present were His Excellency P. B. Vogt (the Norwegian Minister), The Right Hon. Lord Macmillan, P.C., The Right Hon. Lord Justice Lawrence, Colonel The Right Hon. Lord Cottesloe, C.B. V.D., T.D. (Chairman of the National Rifle Association), Sir Thomas Vansittart Bowater, Bt., M.P., Sir Melvill Willis Ward, Bt., Sir G. William Barber, Sir Cecil Budd, K.B.E., Alderman Sir Harold G. Downer, Sir Frank W. Dyson, K.B.E., LL.D., F.R.S. (The Astronomer Royal), Sir Frederick O. Green, C.C., Sir Thomas Inskip, K.C., C.B.E., M.P. (Attorney-General), Sir Percy Mackinnon (Chairman of Lloyds), Sir James Martin, M.B.E., Brigadier-General Sir Arthur Maxwell, K.C.B., C.M.G., D.S.O., Sir Frederick Norton Kay Menzies, K.B.E., M.D. (Chief Medical Officer of the London County Council), Sir J. R. Pakeman, C.B.E., C.C., Sir Edgar Sanders (Treasurer of the London Chamber of Commerce), Sir J. J. Stavridi, Sir Francis Vernon Thomson, K.B.E. (Chairman of the Baltic Mercantile and Shipping Exchange), Lt.-Col. Sir Hugh Turnbull, K.B.E. (Commissioner of City Police), Sir Edward Worthington, K.C.V.O., C.B., C.M.G., C.I.E., His Honour Judge Barnard Lailey, K.C., Stuart J. Bevan, Esq., K.C., M.P. (Hon. Counsel), Clement Davies, Esq., K.C., M.P., James Dickinson, Esq., K.C., Wilfred Greene, Esq., K.C., W. T. Monckton, Esq., M.C., K.C., R. W. Needham, Esq., K.C., G. Cecil Whiteley, Esq., K.C., D.L. (Chairman of Quarter Sessions, County of London), H. Roper Barrett, Esq., C.C., E. R. Cook, Esq., C.B.E. (Secretary to The Law Society) Mr. Deputy and Under-Sheriff T. Howard Deighton, F. C. Goodenough, Esq. (Chairman of Barclays Bank Ltd.), Mr. Alderman and Sheriff P. W. Greenaway, E. C. Grenfell, Esq., M.P., Professor Tom Hare, M.D., F.R.C.V.S., H. L. Hingston Hill, Esq. (President of the Institute of Chartered Accountants), Captain P. N. Layton, C.B.E., R.D. (Elder Brother, Trinity House), Sigmund Metz, Esq. (Joint General Manager, Anglo-French Banking Corporation, Ltd.), H. B. Overy, Esq., M.D., F.R.C.S., J. W. Beaumont Pease, Esq. (Chairman of Lloyds Bank Ltd.), Ernest Sanger, Esq. (Chairman of the London County Council), Ebenezer Smith, Esq. (President of the Solicitors' Managing Clerks' Association), Frederick Whittingham, Esq., C.C. (Chief Commoner of the Corporation of the City of London), and Mr. Sheriff G. H. Wilkinson.

In addition to the Master, the following members of the Court of the Company were present: R. S. Fraser, Esq. (Senior Warden), M. C. Matthews, Esq., V.D. (Junior Warden), E. Burrell Baggallay, Esq., P. D. Botterell, Esq., H. D. P. Francis, Esq., M.C., T.D., F. M. Guedalla, Esq., Harry Knox, Esq., G. L. F. McNair, Esq., G. Stanley Pott, Esq., S. C. Scott, Esq., E. J. Stannard, Esq., and T. H. Wrensted, Esq. (Past Masters), L. C. Bullock, Esq., A. T. Cummings, Esq., Hon. E. G. Eliot, C. S. Golding, Esq., A. Hair, Esq., Anthony Pickford, Esq. (City Solicitor), E. A. Rehder, Esq., E. G. Roscoe, Esq., H. S. Syrett, Esq., C.B.E., C.C., P. C. C. Francis, Esq. (Past Warden), and C. B. Matthews, Esq. (the Clerk).

After the loyal toasts had been honoured, the Master proposed the health of the Lord Mayor, who, he said, as a member of the accountants' profession, helped the legal

profession to maintain law and order, the two foundations of the greatness of the City of London.

The LORD MAYOR, in reply, said that for the last forty years he had spent many of the most interesting hours of his business life in association with members of the legal profession. On many occasions, when as liquidator, receiver or trustee, he had been tempted to take some more or less adventurous line, he had been restrained by the cautious advice of solicitors. The Law and City Courts Committee was one of the most active committees of the Corporation; the City was exceedingly proud that it was responsible for the Central Criminal Court, and its officers also exercised justice in two courts of first instance. He urged the Company to apply for livery, so that its members might enjoy the privilege of voting at the shereeval and mayoral elections. The sheriffs, at their headquarters at the Central Criminal Court, enjoyed their duty of looking after the Bench and Bar and dispensing civic hospitality.

Mr. R. S. FRASER, in proposing "The Commerce of the City," welcomed by name a number of chairmen of large undertakings. The Mansion House had undergone much change since it had been opened in 1745, and the hall in which they were dining had been lighted by candles.

Mr. F. C. GOODENOUGH, the Chairman of Barclays Bank Limited, said, in reply, that he had himself been a solicitor many years ago, and that he had since profited continually by the knowledge and wisdom of the legal profession. Industry, trade and finance were an inseparable trinity. The City had not yet approached a definite solution of the problems of the present day, but he had no doubt that a solution would be found and that the City would then be in an even better position than that of any other country, and even than that which it had previously occupied. At present it was situated between the hammer of the rigidity of wages and the anvil of the tariffs that had been raised against it by other countries. While he saw no immediate prospect of any material alteration in either of these factors, the changes which had taken place in our fiscal system were providing a weapon for bargain. The first evidence of its effectiveness was to be seen in the removal by France of her 15 per cent. surtax on British coal.

THE CITY'S HOPE OF PROSPERITY.

Mr. Goodenough emphasised the importance of regaining the power to invest abroad, which meant the regaining of those invisible receipts which had enabled the City not only to offset the unfavourable trade balance but to stimulate trade and prosperity abroad. From the date when the power of this country to re-invest abroad had begun to diminish, the world had stopped and difficulties had begun to make themselves felt. The withdrawal of the fertilising influence of British capital had prevented that progress abroad which resulted in progress at home. The turn in the value of sterling was most encouraging, and there was growing up a general recognition that sterling was the real basis of world finance and to some extent of world trade. The rush to realise British securities in order to pay debts had given the City a shock, but one that it could bear quite easily, and sterling securities were showing wonderful improvement. Those who relied upon gold would find that its purchasing power would decrease and that that of sterling would rise. In a few years it was possible that the two values might coincide again, when this country would have its reward. Stability was one of the greatest factors in prosperous trade; with integrity and liberty it had made the prosperity of London in the past, and would make it in the future.

Mr. M. C. MATTHEWS, in proposing the health of "The Visitors," pointed out that our ancestors of a thousand years ago had not welcomed at all the wild Northmen who had come down on the north-east wind. Good often came out of what seemed to be bad; the wild spirit of the invaders had become infused into the English spirit and this country had benefited greatly. To-day they welcomed the Norwegian Minister and his countrymen. The speaker also greeted Mr. Ernest Sanger, the Chairman of the London County Council, and Lord Cottesloe, the Chairman of the National Rifle Association, the annual gathering of which at Bisley drew visitors from all parts of the Empire and formed an important Imperial link. Mr. E. R. Cook, Secretary of The Law Society, was a real friend to the profession, and the speaker was glad to think that Mr. Cook had once been a member of his firm.

MASTERS OF METHOD.

Lord MACMILLAN, in reply, reflected that, if there was one adage which in the opinion of the Bar the Bench should particularly lay to heart, it was that "silence is golden." If to-night he went off the "gold standard," it was entirely due to the generous hospitality which he had enjoyed. He was, however, still able to maintain that "stability" which Mr. Goodenough had commended. He owed a great debt to the solicitors; not in the sense intended by the gentleman who had said that he owed more to the tailors of London than he cared to remember, but because he might claim to be a member of their profession. He had served his articles in an office in Glasgow, and, although he had no doubt wasted much of his master's time in writing letters on the firm's notepaper addressed to Lady Macmillan—as she then was not—he had acquired a thoroughly useful grounding. Every barrister, he said, ought to spend some years in a solicitor's office before going to the Bar; he would then learn to be tidy about papers, which no barrister ever was. In a solicitor's office one acquired a sense of method in business which the members of every other profession could copy with advantage. There was much talk about the reforms which were necessary in law, but he welcomed the note of optimism in Mr. Goodenough's speech and preferred it to the self-depreciation which was too prevalent in the profession. At any rate, whenever a thoroughly difficult and unattractive job had to be done, the country did the profession the honour of suggesting that it should be given to one of His Majesty's Judges. This was a tribute to the ability of lawyers to maintain an even keel in the stormy seas of controversy.

Mr. P. H. MARTINEAU, also replying, paid a tribute to Mr. Cook's invariable helpfulness and ready accessibility. He extolled the value of dinner meetings to the unity of the profession, and quoted the remark of Emerson that civilisation, which its members thought to be at its meridian, was only at the cock-crowing and the morning star. This saying applied as much to Great Britain as to America; the country would rise to greater heights than any of those present were able to imagine.

Lord HANWORTH, like Mr. Martineau a Cambridge man, pointed to the re-decoration of the Egyptian Hall in a beautiful light blue as a good omen. It symbolised the genius of the British people for adapting the institutions of the past to suit the needs of the present. Changes would have to be made in the legal system, but they would be for its benefit and for that of society.

THE MASTER briefly replied.

ARDEN SCHOLARSHIP AT GRAY'S INN.

The Arden Scholarship of 1932 (£150 a year for three years) has been awarded to Mr. Hugh Elvet Francis, LL.B., Holker Senior Scholar, Gray's Inn, MacMahon Student, St. John's College, Cambridge, a member of the society.

American Assets in Deceased Estates

Solicitors, Executors and Trustees may obtain necessary forms and full information regarding requirements on applying to:

Guaranty Executor and Trustee Company Limited

Subsidiary of the Guaranty Trust Company of New York

32 Lombard Street E.C.3

Legal Notes and News.

Honours and Appointments.

The Board of Trade announce that they have appointed Mr. DANIEL WILLIAMS to be Inspector-General in Bankruptcy, vice Mr. S. W. Clark, retired. For the present Mr. Williams will also retain his present appointment as Controller of the Clearing Office with Germany and Administrator of Ex-Enemy Property under the various Treaties of Peace Orders.

The King has been pleased to approve, on the recommendation of the Lord Chancellor, the names of the following gentlemen for appointment to the rank of King's Counsel: Sir MAURICE SHELDON AMOS, K.B.E., Mr. SYDNEY CHARLES NICHOLS GOODMAN, The Hon. STEPHEN OGLE HENN COLLINS, C.B.E., Mr. ROLAND BURROWS, Mr. LINTON THEODORE THORP, Mr. KENNETH MEAD MACMORRAN, Mr. JAMES MILLARD TUCKER, Mr. EDWARD LASCELLES FLEMING, Mr. WILLIAM GORMAN, and Mr. HECTOR SAMUEL JAMES HUGHES.

The Colonial Office announces that the King has been pleased to give directions for the appointment of Mr. CHARLES WILTON WOOD GREENIDGE, Magistrate, Trinidad, to be Chief Justice of British Honduras.

Mr. T. J. O'CONNOR, K.C., M.P., has been appointed a Member of the General Council of the Bar in succession to Mr. Justice du Parcq.

The Board of Inland Revenue have appointed Mr. W. E. WILLAN to be Controller of Death Duties and Mr. H. J. R. HERFORD to be Deputy Controller of Death Duties.

Professional Announcement.

(2s. per line.)

Mr. J. L. LINSLEY-THOMAS, of Reigate, has acquired the practice of the late Mr. F. H. Heald, of "Wordsworth Chambers," 267, High-street North, Manor Park, E.12, as from the 1st March, 1932, and will practise at that address under the style of "F. H. Heald & Co."

INNS OF COURT APPOINTMENTS.

The Council of Legal Education announce the appointment of Mr. HENRY EDWIN SALT, M.A., LL.B., Barrister-at-Law, of Gray's Inn, formerly Fellow of Trinity College, Cambridge, to be Assistant Reader in Real Property and Conveyancing at the Inns of Court; and of Mr. WILLIAM ARTHIAN DAVIES, M.A. (Oxon), Barrister-at-Law, of the Inner Temple, and Mr. JOHN GALWAY FOSTER, M.A. (Oxon), Barrister-at-Law, of the Inner Temple, Fellow of All Souls College, to be Examiners in Common Law, Criminal Law, and Evidence and Procedure at the Inns of Court.

Following the death in December last of Mr. J. W. Pridham, the fee-paid Official Receiver in Bankruptcy for the Swindon district, the Board of Trade announce that, as from the 1st March, 1932, this district will be added to the districts of the salaried Official Receiver at Bristol, whose office is at 26, Baldwin-street, Bristol.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Non-Witness.	MR. JUSTICE MAUGHAM. Witness. Part II.
M'nd'y Mar. 7	Mr. Jones	Mr. More	Mr. Andrews	Mr. *Ritchie
Tuesday .. 8	Ritchie	Hicks Beach	More	*Andrews
Wednesday 9	Blaker	Andrews	Ritchie	*More
Thursday . 10	More	Jones	Andrews	Ritchie
Friday 11	Hicks Beach	Ritchie	More	*Andrews
Saturday .. 12	Andrews	Blaker	Ritchie	More

DATE	GROUP I. MR. JUSTICE BENNETT. Witness. Part I.	MR. JUSTICE CLAUSON. Witness. Part II.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part I.	MR. JUSTICE FARWELL. Non-Witness.
M'nd'y Mar. 7	Mr. More	Mr. *Hicks Beach	Mr. *Jones	Mr. Blaker
Tuesday .. 8	*Ritchie	*Blaker	Hicks Beach	Jones
Wednesday 9	Andrews	*Jones	*Blaker	Hicks Beach
Thursday . 10	*More	Hicks Beach	Jones	Blaker
Friday 11	Ritchie	Blaker	*Hicks Beach	Jones
Saturday .. 12	Andrews	Jones	Blaker	Hicks Beach

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phone: Temple Bar 1181-2.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (18th February, 1932) 5%. Next London Stock Exchange Settlement Thursday, 17th March, 1932.

	Middle Price 3 Mar. 1932.	Flat Interest Yield. £ s. d.	Approximate Yield with redemption £ s. d.
English Government Securities.			
Consols 4% 1957 or after	92⅜	4 6 2	
Consols 2½%	59xd	4 4 9	—
War Loan 5% 1929-47	100⅜	4 19 3	—
War Loan 4½% 1925-45	100½	4 9 6	4 9 0
Funding 4% Loan 1960-90	95¼	4 4 0	4 4 4
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	96½	4 3 0	4 4 0
Conversion 5% Loan 1944-64	105⅝	4 14 6	4 13 1
Conversion 4½% Loan 1940-44	101⅜	4 8 6	4 6 1
Conversion 3½% Loan 1961	82xd	4 5 5	—
Local Loans 3% Stock 1912 or after	68xd	4 8 2	—
Bank Stock	262½	4 11 5	—
India 4½% 1950-55	89	5 1 2	—
India 3½%	66xd	5 6 0	—
India 3%	57	5 5 3	—
Sudan 4½% 1939-73	97½	4 12 4	4 12 9
Sudan 4% 1974	91½	4 7 5	4 9 3
Transvaal Government 3% 1923-53 (Guaranteed by British Government.)	85	3 10 7	4 1 9
Colonial Securities.			
Canada 3% 1938	89	3 7 5	5 3 8
Cape of Good Hope 4% 1916-36	96	4 3 4	5 2 6
Cape of Good Hope 3½% 1929-49	78½	4 9 3	5 8 2
Ceylon 5% 1960-70	99	5 1 0	5 1 2
Commonwealth of Australia 5% 1945-75	85½	5 17 0	5 18 9
Gold Coast 4½% 1956	93	4 16 9	5 0 3
Jamaica 4½% 1941-71	94	4 15 9	4 16 10
Natal 4% 1937	94xd	4 5 1	5 8 0
New South Wales 4½% 1935-45	71	6 6 9	8 4 2
New South Wales 5% 1945-65	73½	6 16 0	7 1 10
New Zealand 4½% 1945	86½	5 4 1	6 2 7
New Zealand 5% 1946	99	5 1 0	5 2 0
Nigeria 5% 1950-60	99	5 1 0	5 1 4
Queensland 5% 1940-60	78½	6 7 9	6 14 10
South Africa 5% 1945-75	99½	5 0 6	5 0 7
South Australia 5% 1945-75	81½	6 2 9	6 4 10
Tasmania 5% 1945-75	79½	6 5 10	6 8 1
Victoria 5% 1945-75	81½	6 2 9	6 4 10
West Australia 5% 1945-75	80½	6 4 3	6 6 6
The prices of Stocks are in many cases nominal and dealings often a matter of negotiation.			
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	64	4 13 9	—
Birmingham 5% 1946-56	101xd	4 19 0	4 18 6
Cardiff 5% 1945-65	100	5 0 0	5 0 0
Croydon 3% 1940-60	69xd	4 6 11	5 2 10
Hastings 5% 1947-67	101	4 19 0	4 18 9
Hull 3½% 1925-55	74	4 14 7	5 10 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	75½xd	4 12 9	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	56	4 9 3	—
London City 3% Consolidated Stock after 1920 at option of Corporation	67	4 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	66½	4 10 3	—
Do. do. 3% "B" 1934-2003	69	4 6 11	—
Middlesex C.C. 3½% 1927-47	85	4 2 4	4 19 0
Newcastle 3½% Irredeemable	72	4 17 2	—
Nottingham 3% Irredeemable	64	4 13 9	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	100	5 0 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	81	4 18 9	—
Gt. Western Railway 5% Rent Charge	94	5 6 5	—
Gt. Western Rly. 5% Preference	75½xd	6 12 6	—
L. Mid. & Scot. Rly. 4% Debenture	78½	5 2 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	67½xd	5 18 5	—
L. Mid. & Scot. Rly. 4% Preference	47½xd	8 8 5	—
Southern Railway 4% Debenture	77½	5 3 5	—
Southern Railway 5% Guaranteed	90	5 11 1	—
Southern Railway 5% Preference	65½	7 12 8	—
*L. & N.E. Rly. 4% Debenture	73½	5 8 9	—
*L. & N.E. Rly. 4% 1st Guaranteed	63½	6 6 0	—
*L. & N.E. Rly. 4% 1st Preference	43½	9 3 11	—

*The Prior Charge stocks of the L. & N.E. Ry. are no longer available for Trustees under the heading of either Strict Trustee or Chancery Stocks as no dividend has been paid on that Company's Ordinary Stocks for the past year.

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Stock

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Trustees
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